

99TH CONGRESS  
1ST SESSION

# H. R. 1786

To reauthorize the Export Administration Act of 1979, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 1985

Mr BONKER (for himself and Mr ROTH) introduced the following bill, which was referred to the Committee on Foreign Affairs

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## A BILL

To reauthorize the Export Administration Act of 1979, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 SECTION 1. SHORT TITLE.

4 Titles I and II of this Act may be cited as the "Export  
5 Administration Amendments Act of 1985".

### 6 TITLE I—AMENDMENTS TO EXPORT

### 7 ADMINISTRATION ACT OF 1979

### 8 SEC. 101. REFERENCE TO THE ACT.

9 Except as otherwise expressly provided, whenever in  
10 this title an amendment is expressed in terms of an amend-  
11 ment to a section or other provision, the reference shall be

1 considered to be made to a section or other provision of the  
2 the Export Administration Act of 1979.

3 **SEC. 102. FINDINGS.**

4 Section 2 (50 U.S.C. App. 2401) is amended as follows:

5 (1) Paragraph (2) is amended by striking out “by  
6 strengthening the trade balance and the value of the  
7 United States dollar, thereby reducing inflation” and  
8 inserting in lieu thereof “by earning foreign exchange,  
9 thereby contributing favorably to the trade balance”.

10 (2) Paragraph (3) is amended by striking out  
11 “which would strengthen the Nation’s economy” and  
12 inserting in lieu thereof “consistent with the economic,  
13 security, and foreign policy objectives of the United  
14 States”.

15 (3) Paragraph (6) is amended to read as follows:

16 “(6) Uncertainty of export control policy can in-  
17 hibit the efforts of United States business and work to  
18 the detriment of the overall attempt to improve the  
19 trade balance of the United States.”.

20 (4) Paragraph (9) is amended by striking out  
21 “achievement of a positive balance of payments” and  
22 inserting in lieu thereof “a positive contribution to the  
23 balance of payments”.

24 (5) Section 2 is amended by adding at the end the  
25 following:

1           “(10) It is important that the administration of  
2           export controls imposed for foreign policy purposes  
3           give special emphasis to the need to control exports of  
4           goods and substances hazardous to the public health  
5           and the environment which are banned or severely re-  
6           stricted for use in the United States, and which, if ex-  
7           ported, could affect the international reputation of the  
8           United States as a responsible trading partner.

9           “(11) The acquisition of national security sensitive  
10          goods and technology by the Soviet Union and other  
11          countries the actions or policies of which run counter  
12          to the national security interests of the United States,  
13          has led to the significant enhancement of Soviet bloc  
14          military-industrial capabilities. This enhancement poses  
15          a threat to the security of the United States, its allies,  
16          and other friendly nations, and places additional de-  
17          mands on the defense budget of the United States.

18          “(12) Availability to controlled countries of goods  
19          and technology from foreign sources is a fundamental  
20          concern of the United States and should be eliminated  
21          through negotiations and other appropriate means  
22          whenever possible.

23          “(13) Excessive dependence of the United States,  
24          its allies, or countries sharing common strategic objec-  
25          tives with the United States, on energy and other criti-

1 cal resources from potential adversaries can be harmful  
2 to the mutual and individual security of all those coun-  
3 tries.”.

4 **SEC. 103. DECLARATION OF POLICY.**

5 Section 3 (50 U.S.C. App. 2402) is amended as follows:

6 (1) Paragraph (3) is amended by inserting before  
7 the period at the end “or common strategic objec-  
8 tives”.

9 (2) Paragraph (7) is amended—

10 (A) by striking out “every reasonable effort”  
11 in the second sentence and inserting in lieu there-  
12 of “reasonable and prompt efforts”; and

13 (B) by striking out “resorting to the imposi-  
14 tion of controls on exports from the United  
15 States” in the second sentence and inserting in  
16 lieu thereof “imposing export controls”.

17 (3) Paragraph (8) is amended—

18 (A) by striking out “every reasonable effort”  
19 in the second sentence and inserting in lieu there-  
20 of “reasonable and prompt efforts”; and

21 (B) by striking out “resorting to the imposi-  
22 tion of export controls” in the second sentence  
23 and inserting in lieu thereof “imposing export  
24 controls”.

25 (4) Paragraph (9) is amended—

1 (A) by inserting “or common strategic objec-  
2 tives” after “commitments” each place it appears;  
3 and

4 (B) by inserting before the period at the end  
5 the following: “, and to encourage other friendly  
6 countries to cooperate in restricting the sale of  
7 goods and technology that can harm the security  
8 of the United States”.

9 (5) Section 3 is amended by adding at the end the  
10 following:

11 “(12) It is the policy of the United States to sus-  
12 tain vigorous scientific enterprise. To do so involves  
13 sustaining the ability of scientists and other scholars  
14 freely to communicate research findings, in accordance  
15 with applicable provisions of law, by means of publica-  
16 tion, teaching, conferences, and other forms of scholar-  
17 ly exchange.

18 “(13) It is the policy of the United States to con-  
19 trol the export of goods and substances banned or se-  
20 verely restricted for use in the United States in order  
21 to foster public health and safety and to prevent injury  
22 to the foreign policy of the United States as well as to  
23 the credibility of the United States as a responsible  
24 trading partner.

1           “(14) It is the policy of the United States to co-  
2       operate with countries which are allies of the United  
3       States and countries which share common strategic ob-  
4       jectives with the United States in minimizing depend-  
5       ence on imports of energy and other critical resources  
6       from potential adversaries and in developing alternative  
7       supplies of such resources in order to minimize strate-  
8       gic threats posed by excessive hard currency earnings  
9       derived from such resource exports by countries with  
10      policies adverse to the security interests of the United  
11      States.

12           “(15) It is the policy of the United States, par-  
13      ticularly in light of the Soviet massacre of innocent  
14      men, women, and children aboard Korean Air Lines  
15      flight 7, to continue to object to exceptions to the  
16      International Control List for the Union of Soviet So-  
17      cialist Republics, subject to periodic review by the  
18      President.”.

19   **SEC. 104. GENERAL PROVISIONS.**

20           (a) **VALIDATED LICENSES AUTHORIZING MULTIPLE**  
21   **EXPORTS.**—Section 4(a)(2) (50 U.S.C. App. 2403(a)(2)) is  
22   amended to read as follows:

23           “(2) Validated licenses authorizing multiple ex-  
24      ports, issued pursuant to an application by the export-  
25      er, in lieu of an individual validated license for each

1 such export, including, but not limited to, the follow-  
2 ing:

3 “(A) A distribution license, authorizing ex-  
4 ports of goods to approved distributors or users of  
5 the goods in countries other than controlled coun-  
6 tries. The Secretary shall grant the distribution li-  
7 cense primarily on the basis of the reliability of  
8 the applicant and foreign consignees with respect  
9 to the prevention of diversion of goods to con-  
10 trolled countries. The Secretary shall have the re-  
11 sponsibility of determining, with the assistance of  
12 all appropriate agencies, the reliability of appli-  
13 cants and their immediate consignees. The Secre-  
14 tary’s determination shall be based on appropriate  
15 investigations of each applicant and periodic re-  
16 views of licensees and their compliance with the  
17 terms of licenses issued under this Act. Factors  
18 such as the applicant’s products or volume of  
19 business, or the consignees’ geographic location,  
20 sales distribution area, or degree of foreign owner-  
21 ship, which may be relevant with respect to indi-  
22 vidual cases, shall not be determinative in creat-  
23 ing categories or general criteria for the denial of  
24 applications or withdrawal of a distribution li-  
25 cense.

1           “(B) A comprehensive operations license, au-  
2           thorizing exports and reexports of technology and  
3           related goods, including items from the list of  
4           militarily critical technologies developed pursuant  
5           to section 5(d) of this Act which are included on  
6           the control list in accordance with that section,  
7           from a domestic concern to and among its foreign  
8           subsidiaries, affiliates, joint venturers, and licens-  
9           ees that have long-term, contractually defined re-  
10          lations with the exporter, are located in countries  
11          other than controlled countries, and are approved  
12          by the Secretary. The Secretary shall grant the  
13          license to manufacturing, laboratory, or related  
14          operations on the basis of approval of the export-  
15          er’s systems of control, including internal proprie-  
16          tary controls, applicable to the technology and re-  
17          lated goods to be exported rather than approval of  
18          individual export transactions. The Secretary and  
19          the Commissioner of Customs, consistent with  
20          their authorities under section 12(a) of this Act,  
21          and with the assistance of all appropriate agen-  
22          cies, shall periodically, but not less frequently  
23          than annually, perform audits of licensing proce-  
24          dures under this subparagraph in order to assure  
25          the integrity and effectiveness of those procedures.



1           “(C) A project license, authorizing exports of  
2           goods or technology for a specified activity.

3           “(D) A service supply license, authorizing  
4           exports of spare or replacement parts for goods  
5           previously exported.”.

6       (b) CONTROL LIST.—Section 4(b) is amended—

7           (1) by striking out “Commodity” and “commod-  
8           ity”; and

9           (2) by striking out “consisting of any goods or  
10          technology subject to export controls under this Act”  
11          and inserting in lieu thereof “stating license require-  
12          ments (other than for general licenses) for exports of  
13          goods and technology under this Act”.

14       (c) FOREIGN AVAILABILITY.—Section 4(c) is amend-  
15       ed—

16           (1) by striking out “significant” and inserting in  
17           lieu thereof “sufficient”;

18           (2) by inserting after “those produced in the  
19           United States” the following: “so as to render the con-  
20           trols ineffective in achieving their purposes”; and

21           (3) by adding at the end the following: “In com-  
22           plying with the provisions of this subsection, the Presi-  
23           dent shall give strong emphasis to bilateral or multilat-  
24           eral negotiations to eliminate foreign availability. The  
25           Secretary and the Secretary of Defense shall cooperate

1 in gathering information relating to foreign availability,  
 2 including the establishment and maintenance of a  
 3 jointly operated computer system.”.

4 (d) NOTIFICATION OF PUBLIC AND CONSULTATION  
 5 WITH BUSINESS.—Section 4(f) is amended to read as fol-  
 6 lows:

7 “(f) NOTIFICATION OF THE PUBLIC; CONSULTATION  
 8 WITH BUSINESS.—The Secretary shall keep the public fully  
 9 apprised of changes in export control policy and procedures  
 10 instituted in conformity with this Act with a view to encour-  
 11 aging trade. The Secretary shall meet regularly with repre-  
 12 sentatives of a broad spectrum of enterprises, labor organiza-  
 13 tions, and citizens interested in or affected by export controls,  
 14 in order to obtain their views on United States export control  
 15 policy and the foreign availability of goods and technology.”.

16 SEC. 105. NATIONAL SECURITY CONTROLS.

17 (a) AUTHORITY.—

18 (1) TRANSFERS TO EMBASSIES OF CONTROLLED  
 19 COUNTRIES.—Section 5(a)(1) (50 U.S.C. App.  
 20 2404(a)(1)) is amended by inserting after the first sen-  
 21 tence the following new sentence: “The authority con-  
 22 tained in this subsection includes the authority to pro-  
 23 hibit or curtail the transfer of goods or technology  
 24 within the United States to embassies and affiliates of  
 25 controlled countries.”.

1           (2) CLERICAL AMENDMENT.—Section 5(a)(2) is  
2 amended—

3           (A) by striking out “(A)”; and

4           (B) by striking out subparagraph (B).

5           (3) SAFEGUARDS TO PREVENT DIVERSIONS.—  
6 Section 5(a)(3) is amended by striking out the last sen-  
7 tence.

8           (b) POLICY TOWARD INDIVIDUAL COUNTRIES.—

9           (1) CONTROLLED COUNTRIES.—Section 5(b) is  
10 amended by striking out the first sentence and insert-  
11 ing in lieu thereof the following: “(1) In administering  
12 export controls for national security purposes under  
13 this section, the President shall establish as a list of  
14 controlled countries those countries set forth in section  
15 620(f) of the Foreign Assistance Act of 1961, except  
16 that the President may add any country to or remove  
17 any country from such list of controlled countries if he  
18 determines that the export of goods or technology to  
19 such country would or would not (as the case may be)  
20 make a significant contribution to the military potential  
21 of such country or a combination of countries which  
22 would prove detrimental to the national security of the  
23 United States. In determining whether a country is  
24 added to or removed from the list of controlled coun-  
25 tries, the President shall take into account—

1           “(A) the extent to which the country’s policies are  
2       adverse to the national security interests of the United  
3       States;

4           “(B) the country’s Communist or non-Communist  
5       status;

6           “(C) the present and potential relationship of the  
7       country with the United States;

8           “(D) the present and potential relationships of the  
9       country with countries friendly or hostile to the United  
10      States;

11          “(E) the country’s nuclear weapons capability and  
12      the country’s compliance record with respect to multi-  
13      lateral nuclear weapons agreements to which the  
14      United States is a party; and

15          “(F) such other factors as the President considers  
16      appropriate.

17   Nothing in the preceding sentence shall be interpreted to  
18   limit the authority of the President provided in this Act to  
19   prohibit or curtail the export of any goods or technology to  
20   any country to which exports are controlled for national secu-  
21   rity purposes other than countries on the list of controlled  
22   countries specified in this paragraph.”.

23           (2) EXPORTS TO COCOM COUNTRIES.—Section  
24      5(b) is amended by adding at the end the following:

1       “(2) No authority or permission to export may be re-  
2       quired under this section before goods or technology are ex-  
3       ported in the case of exports to a country which maintains  
4       export controls on such goods or technology cooperatively  
5       with the United States pursuant to the agreement of the  
6       group known as the Coordinating Committee, if the goods or  
7       technology is at such a level of performance characteristics  
8       that the export of the goods or technology to controlled coun-  
9       tries requires only notification of the participating govern-  
10      ments of the Coordinating Committee.”.

11               (3) TECHNICAL AMENDMENT.—Section 5(b)(1), as  
12      amended by paragraph (1) of this subsection, is amend-  
13      ed in the last sentence by striking out “specified in the  
14      preceding sentence” and inserting in lieu thereof “set  
15      forth in this paragraph”.

16      (c) CONTROL LIST.—

17               (1) ANNUAL REVIEW.—Section 5(c) is amended—

18               (A) in paragraph (1) by striking out “com-  
19      modity”; and

20               (B) by amending paragraph (3) to read as fol-  
21      lows:

22               “(3) The Secretary shall review the list established pur-  
23      suant to this subsection at least once each year in order to  
24      carry out the policy set forth in section 3(2)(A) of this Act  
25      and the provisions of this section, and shall promptly make

1 such revisions of the list as may be necessary after each such  
2 review. Before beginning each annual review, the Secretary  
3 shall publish notice of that annual review in the Federal Reg-  
4 ister. The Secretary shall provide an opportunity during such  
5 review for comment and the submission of data, with or with-  
6 out oral presentation, by interested Government agencies and  
7 other affected or potentially affected parties. The Secretary  
8 shall publish in the Federal Register any revisions in the list,  
9 with an explanation of the reasons for the revisions. The Sec-  
10 retary shall further assess, as part of such review, the avail-  
11 ability from sources outside the United States of goods and  
12 technology comparable to those subject to export controls im-  
13 posed under this section.”.

14 (2) **EFFECTIVE DATE.**—The amendment made by  
15 paragraph (1)(B) of this subsection shall take effect on  
16 October 1, 1985.

17 (d) **EXPORT LICENSES.**—Section 5(e) is amended—

18 (1) in paragraph (1) by striking out “a qualified  
19 general license in lieu of a validated license” and in-  
20 serting in lieu thereof “the multiple validated export li-  
21 censes described in section 4(a)(2) of this Act in lieu of  
22 individual validated licenses”; and

23 (2) by striking out paragraphs (3) and (4) and in-  
24 serting in lieu thereof the following:

1       “(3) The Secretary, subject to the provisions of subsec-  
2       tion (l) of this section, shall not require an individual validat-  
3       ed export license for replacement parts which are exported to  
4       replace on a one-for-one basis parts that were in a good that  
5       has been lawfully exported from the United States.

6       “(4) The Secretary shall periodically review the proce-  
7       dures with respect to the multiple validated export licenses,  
8       taking appropriate action to increase their utilization by re-  
9       ducing qualification requirements or lowering minimum  
10      thresholds, to combine procedures which overlap, and to  
11      eliminate those procedures which appear to be of marginal  
12      utility.

13      “(5) The export of goods subject to export controls  
14      under this section shall be eligible, at the discretion of the  
15      Secretary, for a distribution license and other licenses author-  
16      izing multiple exports of goods, in accordance with section  
17      4(a)(2) of this Act. The export of technology and related  
18      goods subject to export controls under this section shall be  
19      eligible for a comprehensive operations license in accordance  
20      with section 4(a)(2)(B) of this Act.”.

21      (e) INDEXING.—Section 5(g) is amended to read as fol-  
22      lows:

23      “(g) INDEXING.—In order to ensure that requirements  
24      for validated licenses and other licenses authorizing multiple  
25      exports are periodically removed as goods or technology sub-

1 ject to such requirements becomes obsolete with respect to  
2 the national security of the United States, regulations issued  
3 by the Secretary may, where appropriate, provide for annual  
4 increases in the performance levels of goods or technology  
5 subject to any such licensing requirement. The regulations  
6 issued by the Secretary shall establish as one criterion for the  
7 removal of goods or technology from such license require-  
8 ments the anticipated needs of the military of controlled  
9 countries. Any such goods or technology which no longer  
10 meets the performance levels established by the regulations  
11 shall be removed from the list established pursuant to subsec-  
12 tion (c) of this section unless, under such exceptions and  
13 under such procedures as the Secretary shall prescribe, any  
14 other department or agency of the United States objects to  
15 such removal and the Secretary determines, on the basis of  
16 such objection, that the goods or technology shall not be re-  
17 moved from the list. The Secretary shall also consider, where  
18 appropriate, removing site visitation requirements for goods  
19 and technology which are removed from the list unless objec-  
20 tions described in this subsection are raised.”.

21 (f) MULTILATERAL EXPORT CONTROLS.—Section 5(i)  
22 is amended—

23 (1) by striking out paragraph (3);

24 (2) in paragraph (4)—



1 (A) by striking out “(4)” and inserting in lieu  
2 thereof “(3)”; and

3 (B) by striking out “pursuant to paragraph  
4 (3)” and inserting in lieu thereof “by the members  
5 of the Committee”; and  
6 (3) by adding at the end the following:

7 “(4) Agreement to enhance full compliance by all  
8 parties with the export controls imposed by agreement  
9 of the Committee through the establishment of appro-  
10 priate mechanisms.

11 “(5) Agreement to improve the International Con-  
12 trol List and minimize the approval of exceptions to  
13 that list, strengthen enforcement and cooperation in en-  
14 forcement efforts, provide sufficient funding for the  
15 Committee, and improve the structure and function of  
16 the Secretariat of the Committee by upgrading profes-  
17 sional staff, translation services, data base mainte-  
18 nance, communications, and facilities.

19 “(6) Agreement to coordinate the systems of  
20 export control documents used by the participating  
21 governments in order to verify effectively the move-  
22 ment of goods or technology subject to controls by the  
23 Committee from the country of any such government  
24 to any other place.

1           “(7) Agreement to establish uniform, adequate  
2       criminal and civil penalties to deter more effectively di-  
3       versions of items controlled for export by agreement of  
4       the Committee.

5           “(8) Agreement to increase on-site inspections by  
6       national enforcement authorities of the participating  
7       governments to ensure that end users who have im-  
8       ported items controlled for export by agreement of the  
9       Committee are using such items for the stated end  
10      uses, and that such items are, in fact, under the control  
11      of those end users.

12          “(9) Agreement to strengthen the Committee so  
13      that it functions effectively in controlling export trade  
14      in a manner that better protects the national security  
15      of each participant to the mutual benefit of all partici-  
16      pants.”.

17      (g) COMMERCIAL AGREEMENTS WITH CERTAIN  
18 COUNTRIES.—Section 5(j) is amended to read as follows:

19      “(j) COMMERCIAL AGREEMENTS WITH CERTAIN  
20 COUNTRIES.—(1) Any United States firm, enterprise, or  
21 other nongovernmental entity which enters into an agree-  
22 ment with any agency of the government of a controlled  
23 country, that calls for the encouragement of technical coop-  
24 eration and that is intended to result in the export from the  
25 United States to the other party of unpublished technical data

1 of United States origin, shall report to the Secretary the  
2 agreement with such agency in sufficient detail.

3 “(2) The provisions of paragraph (1) shall not apply to  
4 colleges, universities, or other educational institutions.”.

5 (h) NEGOTIATIONS WITH OTHER COUNTRIES.—Sec-  
6 tion 5(k) is amended—

7 (1) by inserting after “conducting negotiations  
8 with other countries” the following: “, including those  
9 countries not participating in the group known as the  
10 Coordinating Committee,”; and

11 (2) by adding at the end the following: “In cases  
12 where such negotiations produce agreements on export  
13 restrictions comparable in practice to those maintained  
14 by the Coordinating Committee, the Secretary shall  
15 treat exports, whether by individual or multiple li-  
16 censes, to countries party to such agreements in the  
17 same manner as exports to members of the Coordinat-  
18 ing Committee are treated, including the same manner  
19 as exports are treated under subsection (b)(2) of this  
20 section and section 10(o) of this Act.”.

21 (i) DIVERSION OF CONTROLLED GOODS OR TECHNOL-  
22 OGY.—Section 5(l) is amended to read as follows:

23 “(l) DIVERSION OF CONTROLLED GOODS OR TECH-  
24 NOLOGY.—(1) Whenever there is reliable evidence, as deter-  
25 mined by the Secretary, that goods or technology which were

1 exported subject to national security controls under this sec-  
2 tion to a controlled country have been diverted to an unau-  
3 thorized use or consignee in violation of the conditions of an  
4 export license, the Secretary for as long as that diversion  
5 continues—

6           “(A) shall deny all further exports, to or by the  
7 party or parties responsible for that diversion or who  
8 conspired in that diversion, of any goods or technology  
9 subject to national security controls under this section,  
10 regardless of whether such goods or technology are  
11 available from sources outside the United States; and

12           “(B) may take such additional actions under this  
13 Act with respect to the party or parties referred to in  
14 subparagraph (A) as the Secretary determines are ap-  
15 propriate in the circumstances to deter the further un-  
16 authorized use of the previously exported goods or  
17 technology.

18           “(2) As used in this subsection, the term ‘unauthorized  
19 use’ means the use of United States goods or technology in  
20 the design, production, or maintenance of any item on the  
21 United States Munitions List, or the military use of any item  
22 on the International Control List of the Coordinating Com-  
23 mittee.”.

1 (j) ADDITIONAL NATIONAL SECURITY PROVISIONS.—

2 Section 5 is amended by adding at the end the following new  
3 subsections:

4 “(m) GOODS CONTAINING MICROPROCESSORS.—

5 Export controls may not be imposed under this section on a  
6 good solely on the basis that the good contains an embedded  
7 microprocessor, if such microprocessor cannot be used or al-  
8 tered to perform functions other than those it performs in the  
9 good in which it is embedded. An export control may be im-  
10 posed under this section on a good containing an embedded  
11 microprocessor referred to in the preceding sentence only on  
12 the basis that the functions of the good itself are such that  
13 the good, if exported, would make a significant contribution  
14 to the military potential of any other country or combination  
15 of countries which would prove detrimental to the national  
16 security of the United States.

17 “(n) SECURITY MEASURES.—The Secretary and the  
18 Commissioner of Customs, consistent with their authorities  
19 under section 12(a) of this Act, and in consultation with the  
20 Director of the Federal Bureau of Investigation, shall provide  
21 advice and technical assistance to persons engaged in the  
22 manufacture or handling of goods or technology subject to  
23 export controls under this section to develop security systems  
24 to prevent violations or evasions of those export controls.

1       “(o) RECORDKEEPING.—The Secretary, the Secretary  
 2 of Defense, and any other department or agency consulted in  
 3 connection with a license application under this Act or a revi-  
 4 sion of a list of goods or technology subject to export controls  
 5 under this Act, shall make and keep records of their respec-  
 6 tive advice, recommendations, or decisions in connection with  
 7 any such license application or revision, including the factual  
 8 and analytical basis of the advice, recommendations, or deci-  
 9 sions.

10       “(p) NATIONAL SECURITY CONTROL OFFICE.—To  
 11 assist in carrying out the policy and other authorities and  
 12 responsibilities of the Secretary of Defense under this section,  
 13 there is established in the Department of Defense a National  
 14 Security Control Office under the direction of the Under Sec-  
 15 retary of Defense for Policy. The Secretary of Defense may  
 16 delegate to that office such of those authorities and responsi-  
 17 bilities, together with such ancillary functions, as the Secre-  
 18 tary of Defense considers appropriate.

19       “(q) EXCLUSION FOR AGRICULTURAL COMMOD-  
 20 ITIES.—This section does not authorize export controls on  
 21 agricultural commodities, including fats, oils, and animal  
 22 hides and skins.”.

23 **SEC. 106. MILITARILY CRITICAL TECHNOLOGIES.**

24       (a) Section 5(d) (50 U.S.C. App. 2404(d)) is amended—

25               (1) in paragraph (2)—

1 (A) in subparagraph (B) by striking out  
2 “and” after “test equipment,”;

3 (B) by adding “and” at the end of subpara-  
4 graph (C);

5 (C) by inserting after subparagraph (C) the  
6 following:

7 “(D) keystone equipment which would reveal or  
8 give insight into the design and manufacture of a  
9 United States military system,”; and

10 (D) by striking out “countries to which ex-  
11 ports are controlled under this section” and in-  
12 serting in lieu thereof the following: “, or avail-  
13 able in fact from sources outside the United  
14 States to, controlled countries”; and

15 (2) by striking out paragraphs (4) through (6) and  
16 inserting in lieu thereof the following:

17 “(4) The Secretary and the Secretary of Defense shall  
18 integrate items on the list of militarily critical technologies  
19 into the control list in accordance with the requirements of  
20 subsection (c) of this section. The integration of items on the  
21 list of militarily critical technologies into the control list shall  
22 proceed with all deliberate speed. Any disagreement between  
23 the Secretary and the Secretary of Defense regarding the  
24 integration of an item on the list of militarily critical technol-  
25 ogies into the control list shall be resolved by the President.

1 Except in the case of a good or technology for which a vali-  
2 dated license may be required under subsection (f)(4) or (h)(6)  
3 of this section, a good or technology shall be included on the  
4 control list only if the Secretary finds that controlled coun-  
5 tries do not possess that good or technology, or a functionally  
6 equivalent good or technology, and the good or technology or  
7 functionally equivalent good or technology is not available in  
8 fact to a controlled country from sources outside the United  
9 States in sufficient quantity and of comparable quality so that  
10 the requirement of a validated license for the export of such  
11 good or technology is or would be ineffective in achieving the  
12 purpose set forth in subsection (a) of this section. The Secre-  
13 tary and the Secretary of Defense shall jointly submit a  
14 report to the Congress, not later than 1 year after the date of  
15 the enactment of the Export Administration Amendments  
16 Act of 1985, on actions taken to carry out this paragraph.  
17 For the purposes of this paragraph, assessment of whether a  
18 good or technology is functionally equivalent shall include  
19 consideration of the factors described in subsection (f)(3) of  
20 this section.

21       “(5) The Secretary of Defense shall establish a proce-  
22 dure for reviewing the goods and technology on the list of  
23 militarily critical technologies at least annually for the pur-  
24 pose of removing from the list of militarily critical technol-  
25 ogies any goods or technology that are no longer militarily



1 critical. The Secretary of Defense may add to the list of mili-  
2 tarily critical technologies any good or technology that the  
3 Secretary of Defense determines is militarily critical, consist-  
4 ent with the provisions of paragraph (2) of this subsection. If  
5 the Secretary and the Secretary of Defense disagree as to  
6 whether any change in the list of militarily critical technol-  
7 ogies by the addition or removal of a good or technology  
8 should also be made in the control list, consistent with the  
9 provisions of the fourth sentence of paragraph (4) of this sub-  
10 section, the President shall resolve the disagreement.

11 “(6) The establishment of adequate export controls for  
12 militarily critical technology and keystone equipment shall be  
13 accompanied by suitable reductions in the controls on the  
14 products of that technology and equipment.

15 “(7) The Secretary of Defense shall, not later than 1  
16 year after the date of the enactment of the Export Adminis-  
17 tration Amendments Act of 1985, report to the Congress on  
18 efforts by the Department of Defense to assess the impact  
19 that the transfer of goods or technology on the list of militari-  
20 ly critical technologies to controlled countries has had or will  
21 have on the military capabilities of those countries.”.

22 **SEC. 107. FOREIGN AVAILABILITY.**

23 (a) **CONSULTATIONS ON FOREIGN AVAILABILITY.—**  
24 Section 5(f)(1) (50 U.S.C. App. 2404(f)(1)) is amended by in-

1   serting after “The Secretary, in consultation with” the fol-  
2   lowing: “the Secretary of Defense and other”.

3       (b) DETERMINATIONS OF FOREIGN AVAILABILITY.—

4   Section 5(f)(3) is amended to read as follows:

5       “(3) The Secretary shall make a foreign availability de-  
6   termination under paragraph (1) or (2) on the Secretary’s  
7   own initiative or upon receipt of an allegation from an export  
8   license applicant that such availability exists. In making any  
9   such determination, the Secretary shall accept the represen-  
10   tations of applicants made in writing and supported by rea-  
11   sonable evidence, unless such representations are contradict-  
12   ed by reliable evidence, including scientific or physical exami-  
13   nation, expert opinion based upon adequate factual informa-  
14   tion, or intelligence information. In making determinations of  
15   foreign availability, the Secretary may consider such factors  
16   as cost, reliability, the availability and reliability of spare  
17   parts and the cost and quality thereof, maintenance pro-  
18   grams, durability, quality of end products produced by the  
19   item proposed for export, and scale of production. For pur-  
20   poses of this paragraph, ‘evidence’ may include such items as  
21   foreign manufacturers’ catalogues, brochures, or operation or  
22   maintenance manuals, articles from reputable trade publica-  
23   tions, photographs, and depositions based upon eyewitness  
24   accounts.”.

1       (c) NEGOTIATIONS ON FOREIGN AVAILABILITY.—Sec-  
2       tion 5(f)(4) is amended by striking out the first sentence and  
3       inserting in lieu thereof the following: “In any case in which  
4       export controls are maintained under this section notwith-  
5       standing foreign availability, on account of a determination  
6       by the President that the absence of the controls would prove  
7       detrimental to the national security of the United States, the  
8       President shall actively pursue negotiations with the govern-  
9       ments of the appropriate foreign countries for the purpose of  
10      eliminating such availability. If, within 6 months after the  
11      President’s determination, the foreign availability has not  
12      been eliminated, the Secretary may not, after the end of that  
13      6-month period, require a validated license for the export of  
14      the goods or technology involved. The President may extend  
15      the 6-month period described in the preceding sentence for an  
16      additional period of 12 months if the President certifies to the  
17      Congress that the negotiations involved are progressing and  
18      that the absence of the export control involved would prove  
19      detrimental to the national security of the United States.”.

20      (d) OFFICE OF FOREIGN AVAILABILITY.—

21           (1) ESTABLISHMENT.—Section 5(f)(5) is amended  
22      to read as follows:

23      “(5) The Secretary shall establish in the Department of  
24      Commerce an Office of Foreign Availability which, in the  
25      fiscal year 1985, shall be under the direction of the Assistant

1 Secretary of Commerce for Trade Administration, and, in the  
2 fiscal year 1986 and thereafter, shall be under the direction  
3 of the Under Secretary of Commerce for Export Administra-  
4 tion. The Office shall be responsible for gathering and analyz-  
5 ing all the necessary information in order for the Secretary to  
6 make determinations of foreign availability under this Act.  
7 The Secretary shall make available to the Committee on For-  
8 eign Affairs of the House of Representatives and the Com-  
9 mittee on Banking, Housing, and Urban Affairs of the Senate  
10 at the end of each 6-month period during a fiscal year infor-  
11 mation on the operations of the Office, and on improvements  
12 in the Government's ability to assess foreign availability,  
13 during that 6-month period, including information on the  
14 training of personnel, the use of computers, and the use of  
15 Foreign Commercial Service officers. Such information shall  
16 also include a description of representative determinations  
17 made under this Act during that 6-month period that foreign  
18 availability did or did not exist (as the case may be), together  
19 with an explanation of such determinations.”.

20 (2) CLERICAL AMENDMENT.—Section 5(f)(6) is  
21 amended by striking out “Office of Export Administra-  
22 tion” and inserting in lieu thereof “Office of Foreign  
23 Availability”.

1       (e) REGULATIONS ON FOREIGN AVAILABILITY.—Sec-  
 2 tion 5(f) is amended by adding at the end the following new  
 3 paragraph:

4       “(7) The Secretary shall issue regulations with respect  
 5 to determinations of foreign availability under this Act not  
 6 later than 6 months after the date of the enactment of the  
 7 Export Administration Amendments Act of 1985.”.

8       (f) TECHNICAL ADVISORY COMMITTEES.—

9           (1) MEMBERSHIP.—Section 5(h)(1) is amended by  
 10 inserting “, the intelligence community,” after “De-  
 11 partments of Commerce, Defense, and State”.

12           (2) MATTERS ON WHICH COMMITTEES CONSULT-  
 13 ED.—Section 5(h)(2) is amended in the second sen-  
 14 tence—

15           (A) by striking out “and” at the end of  
 16 clause (C); and

17           (B) by inserting before the period at the end  
 18 of the second sentence the following: “, and (E)  
 19 any other questions relating to actions designed to  
 20 carry out the policy set forth in section 3(2)(A) of  
 21 this Act.”.

22           (3) FOREIGN AVAILABILITY CERTIFICATIONS.—  
 23 Section 5(h)(6) is amended by striking out “and pro-  
 24 vides adequate documentation” and all that follows  
 25 through the end of the paragraph and inserting in lieu

1       thereof the following: “the technical advisory commit-  
2       tee shall submit that certification to the Congress at  
3       the same time the certification is made to the Secre-  
4       tary, together with the documentation for the certifica-  
5       tion. The Secretary shall investigate the foreign avail-  
6       ability so certified and, not later than 90 days after the  
7       certification is made, shall submit a report to the tech-  
8       nical advisory committee and the Congress stating  
9       that—

10           “(A) the Secretary has removed the requirement  
11       of a validated license for the export of the goods or  
12       technology, on account of the foreign availability,

13           “(B) the Secretary has recommended to the Presi-  
14       dent that negotiations be conducted to eliminate the  
15       foreign availability, or

16           “(C) the Secretary has determined on the basis of  
17       the investigation that the foreign availability does not  
18       exist.

19       To the extent necessary, the report may be submitted on a  
20       classified basis. In any case in which the Secretary has rec-  
21       ommended to the President that negotiations be conducted to  
22       eliminate the foreign availability, the President shall actively  
23       pursue such negotiations with the governments of the appro-  
24       priate foreign countries. If, within 6 months after the Secre-  
25       tary submits such report to the Congress, the foreign avail-

1 ability has not been eliminated, the Secretary may not, after  
 2 the end of that 6-month period, require a validated license for  
 3 the export of the goods or technology involved. The Presi-  
 4 dent may extend the 6-month period described in the preced-  
 5 ing sentence for an additional period of 12 months if the  
 6 President certifies to the Congress that the negotiations in-  
 7 volved are progressing and that the absence of the export  
 8 control involved would prove detrimental to the national se-  
 9 curity of the United States.”.

10 (i) **STANDARD FOR FOREIGN AVAILABILITY.**—Subsec-  
 11 tions (f)(1), (f)(2), and (h)(6) of section 5 are each amended by  
 12 striking out “sufficient quality” and inserting in lieu thereof  
 13 “comparable quality”.

14 (j) **TECHNICAL AMENDMENTS.**—Subsections (f)(1),  
 15 (f)(4), and (h)(6) of section 5 are each amended by striking out  
 16 “countries to which exports are controlled under this sec-  
 17 tion” and inserting in lieu thereof “controlled countries”.

18 **SEC. 108. FOREIGN POLICY CONTROLS.**

19 (a) **AUTHORITY.**—Section 6(a) (50 U.S.C. App.  
 20 2405(a)) is amended—

21 (1) in paragraph (1)—

22 (A) by striking out “or (8)” and inserting in  
 23 lieu thereof “(8), or (13)”; and

24 (B) by inserting in the second sentence after  
 25 “Secretary of State” the following: “, the Secre-

1           tary of Defense, the Secretary of Agriculture, the  
2           Secretary of the Treasury, the United States  
3           Trade Representative,";

4           (2) by redesignating paragraphs (2) through (4) as  
5           paragraphs (3) through (5), respectively;

6           (3) by inserting after paragraph (1) the following  
7           new paragraph:

8           “(2) Any export control imposed under this section shall  
9           apply to any transaction or activity undertaken with the  
10          intent to evade that export control, even if that export con-  
11          trol would not otherwise apply to that transaction or activi-  
12          ty.”; and

13          (4) in paragraph (3), as redesignated by paragraph  
14          (2) of this subsection, by striking out “(e)” and insert-  
15          ing in lieu thereof “(f)”.

16          (b) CRITERIA.—Section 6(b) is amended to read as fol-  
17          lows:

18          “(b) CRITERIA.—(1) Subject to paragraph (2) of this  
19          subsection, the President may impose, extend, or expand  
20          export controls under this section only if the President deter-  
21          mines that—

22                 “(A) such controls are likely to achieve the in-  
23                 tended foreign policy purpose, in light of other factors,  
24                 including the availability from other countries of the  
25                 goods or technology proposed for such controls, and



1       that foreign policy purpose cannot be achieved through  
2       negotiations or other alternative means;

3           “(B) the proposed controls are compatible with  
4       the foreign policy objectives of the United States and  
5       with overall United States policy toward the country to  
6       which exports are to be subject to the proposed con-  
7       trols;

8           “(C) the reaction of other countries to the imposi-  
9       tion, extension, or expansion of such export controls by  
10      the United States is not likely to render the controls  
11      ineffective in achieving the intended foreign policy pur-  
12      pose or to be counterproductive to United States for-  
13      eign policy interests;

14          “(D) the effect of the proposed controls on the  
15      export performance of the United States, the competi-  
16      tive position of the United States in the international  
17      economy, the international reputation of the United  
18      States as a supplier of goods and technology, or on the  
19      economic well-being of individual United States compa-  
20      nies and their employees and communities does not  
21      exceed the benefit to United States foreign policy ob-  
22      jectives; and

23          “(E) the United States has the ability to enforce  
24      the proposed controls effectively.

1       “(2) With respect to those export controls in effect  
 2 under this section on the date of the enactment of the Export  
 3 Administration Amendments Act of 1985, the President, in  
 4 determining whether to extend those controls, as required by  
 5 subsection (a)(3) of this section, shall consider the criteria set  
 6 forth in paragraph (1) of this subsection and shall consider the  
 7 foreign policy consequences of modifying the export con-  
 8 trols.”.

9       (c) CONSULTATION WITH INDUSTRY.—Section 6(c) is  
 10 amended to read as follows:

11       “(c) CONSULTATION WITH INDUSTRY.—The Secretary  
 12 in every possible instance shall consult with and seek advice  
 13 from affected United States industries and appropriate advi-  
 14 sory committees established under section 135 of the Trade  
 15 Act of 1974 before imposing any export control under this  
 16 section. Such consultation and advice shall be with respect to  
 17 the criteria set forth in subsection (b)(1) and such other mat-  
 18 ters as the Secretary considers appropriate.”.

19       (d) CONSULTATION WITH OTHER COUNTRIES.—Sec-  
 20 tion 6 is amended—

21               (1) by redesignating subsections (d) through (k) as  
 22 subsections (e) through (l), respectively; and

23               (2) by inserting after subsection (c) the following  
 24 new subsection:

1       “(d) CONSULTATION WITH OTHER COUNTRIES.—

2   When imposing export controls under this section, the Presi-  
3   dent shall, at the earliest appropriate opportunity, consult  
4   with the countries with which the United States maintains  
5   export controls cooperatively, and with such other countries  
6   as the President considers appropriate, with respect to the  
7   criteria set forth in subsection (b)(1) and such other matters  
8   as the President considers appropriate.”.

9       (e) CONSULTATION WITH THE CONGRESS.—Section  
10  6(f), as redesignated by subsection (d) of this section, is  
11  amended to read as follows:

12       “(f) CONSULTATION WITH THE CONGRESS.—(1) The  
13  President may impose or expand export controls under this  
14  section, or extend such controls as required by subsection  
15  (a)(3) of this section, only after consultation with the Con-  
16  gress, including the Committee on Foreign Affairs of the  
17  House of Representatives and the Committee on Banking,  
18  Housing, and Urban Affairs of the Senate.

19       “(2) The President may not impose, expand, or extend  
20  export controls under this section until the President has sub-  
21  mitted to the Congress a report—

22               “(A) specifying the purpose of the controls;

23               “(B) specifying the determinations of the Presi-  
24   dent (or, in the case of those export controls described  
25   in subsection (b)(2), the considerations of the President)

1 with respect to each of the criteria set forth in subsec-  
2 tion (b)(1), the bases for such determinations (or consid-  
3 erations), and any possible adverse foreign policy con-  
4 sequences of the controls;

5 “(C) describing the nature, the subjects, and the  
6 results of, or the plans for, the consultation with indus-  
7 try pursuant to subsection (c) and with other countries  
8 pursuant to subsection (d);

9 “(D) specifying the nature and results of any al-  
10 ternative means attempted under subsection (e), or the  
11 reasons for imposing, expanding, or extending the con-  
12 trols without attempting any such alternative means;  
13 and

14 “(E) describing the availability from other coun-  
15 tries of goods or technology comparable to the goods  
16 or technology subject to the proposed export controls,  
17 and describing the nature and results of the efforts  
18 made pursuant to subsection (h) to secure the coopera-  
19 tion of foreign governments in controlling the foreign  
20 availability of such comparable goods or technology.

21 Such report shall also indicate how such controls will further  
22 significantly the foreign policy of the United States or will  
23 further its declared international obligations.

24 “(3) To the extent necessary to further the effectiveness  
25 of the export controls, portions of a report required by para-

1 graph (2) may be submitted to the Congress on a classified  
2 basis, and shall be subject to the provisions of section 12(c) of  
3 this Act. Each such report shall, at the same time it is sub-  
4 mitted to the Congress, also be submitted to the General Ac-  
5 counting Office for the purpose of assessing the report's full  
6 compliance with the intent of this subsection.

7 “(4) In the case of export controls under this section  
8 which prohibit or curtail the export of any agricultural com-  
9 modity, a report submitted pursuant to paragraph (2) shall be  
10 deemed to be the report required by section 7(g)(3)(A) of this  
11 Act.

12 “(5) In addition to any written report required under  
13 this section, the Secretary, not less frequently than annually,  
14 shall present in oral testimony before the Committee on  
15 Banking, Housing, and Urban Affairs of the Senate and the  
16 Committee on Foreign Affairs of the House of Representa-  
17 tives a report on policies and actions taken by the Govern-  
18 ment to carry out the provisions of this section.”.

19 (f) EXCLUSION OF CERTAIN ITEMS FROM FOREIGN  
20 POLICY CONTROLS.—Section 6(g), as redesignated by sub-  
21 section (d) of this section, is amended—

22 (1) by inserting after the first sentence the follow-  
23 ing: “This section also does not authorize export con-  
24 trols on donations of goods (including, but not limited  
25 to, food, educational materials, seeds and hand tools,

1 medicines and medical supplies, water resources equip-  
 2 ment, clothing and shelter materials, and basic house-  
 3 hold supplies) that are intended to meet basic human  
 4 needs.”; and

5 (2) by striking out the last sentence and inserting  
 6 in lieu thereof the following: “This subsection shall not  
 7 apply to any export control on medicine, medical sup-  
 8 plies, or food, except for donations, which is in effect  
 9 on the date of the enactment of the Export Adminis-  
 10 tration Amendments Act of 1985. Notwithstanding the  
 11 preceding provisions of this subsection, the President  
 12 may impose export controls under this section on medi-  
 13 cine, medical supplies, food, and donations of goods in  
 14 order to carry out the policy set forth in paragraph  
 15 (13) of section 3 of this Act.”.

16 (g) FOREIGN AVAILABILITY.—

17 (1) IN GENERAL.—Section 6(h), as redesignated  
 18 by subsection (d) of this section, is amended—

19 (A) by inserting “(1)” immediately before the  
 20 first sentence; and

21 (B) by adding at the end the following:

22 “(2) Before extending any export control pursuant to  
 23 subsection (a)(3) of this section, the President shall evaluate  
 24 the results of his actions under paragraph (1) of this subsec-  
 25 tion and shall include the results of that evaluation in his

1 report to the Congress pursuant to subsection (f) of this sec-  
2 tion.

3       “(3) If, within 6 months after the date on which export  
4 controls under this section are imposed or expanded, or  
5 within 6 months after the date of the enactment of the  
6 Export Administration Amendments Act of 1985 in the case  
7 of export controls in effect on such date of enactment, the  
8 President’s efforts under paragraph (1) are not successful in  
9 securing the cooperation of foreign governments described in  
10 paragraph (1) with respect to those export controls, the Sec-  
11 retary shall thereafter take into account the foreign availabil-  
12 ity of the goods or technology subject to the export controls.  
13 If the Secretary affirmatively determines that a good or tech-  
14 nology subject to the export controls is available in sufficient  
15 quantity and comparable quality from sources outside the  
16 United States to countries subject to the export controls so  
17 that denial of an export license would be ineffective in  
18 achieving the purposes of the controls, then the Secretary  
19 shall, during the period of such foreign availability, approve  
20 any license application which is required for the export of the  
21 good or technology and which meets all requirements for  
22 such a license. The Secretary shall remove the good or tech-  
23 nology from the list established pursuant to subsection (l) of  
24 this section if the Secretary determines that such action is  
25 appropriate.

1       “(4) In making a determination of foreign availability  
2 under paragraph (3) of this subsection, the Secretary shall  
3 follow the procedures set forth in section 5(f)(3) of this Act.”.

4           (2) AMENDMENTS NOT APPLICABLE TO CERTAIN  
5 EXISTING CONTROLS.—The amendments made by  
6 paragraph (1) of this subsection shall not apply to  
7 export controls in effect under subsection (i), (j), or (k)  
8 of section 6 of the Export Administration Act of 1979  
9 (as redesignated by subsection (d) of this section) imme-  
10 diately before the date of the enactment of this Act, or  
11 to export controls made effective by subsection (i)(2) of  
12 this section or by section 6(n) of the Export Adminis-  
13 tration Act of 1979 (as added by subsection (l)(1) of  
14 this section).

15       (h) INTERNATIONAL OBLIGATIONS.—Section 6(i), as  
16 redesignated by subsection (d) of this section, is amended by  
17 striking out “(f), and (g)” and inserting in lieu thereof “(e),  
18 (g), and (h)”.

19       (i) COUNTRIES SUPPORTING INTERNATIONAL TER-  
20 RORISM.—

21           (1) IN GENERAL.—Section 6(j), as redesignated  
22 by subsection (d) of this section, is amended to read as  
23 follows:

24       “(j) COUNTRIES SUPPORTING INTERNATIONAL TER-  
25 RORISM.—(1) The Secretary and the Secretary of State shall



1 notify the Committee on Foreign Affairs of the House of  
2 Representatives and the Committee on Banking, Housing,  
3 and Urban Affairs and the Committee on Foreign Relations  
4 of the Senate at least 30 days before any license is approved  
5 for the export of goods or technology valued at more than  
6 \$7,000,000 to any country concerning which the Secretary  
7 of State has made the following determinations:

8           “(A) Such country has repeatedly provided sup-  
9 port for acts of international terrorism.

10           “(B) Such exports would make a significant con-  
11 tribution to the military potential of such country, in-  
12 cluding its military logistics capability, or would en-  
13 hance the ability of such country to support acts of  
14 international terrorism.

15           “(2) Any determination which has been made with re-  
16 spect to a country under paragraph (1) of this subsection may  
17 not be rescinded unless the President, at least 30 days before  
18 the proposed rescission would take effect, submits to the  
19 Congress a report justifying the rescission and certifying  
20 that—

21           “(A) the country concerned has not provided sup-  
22 port for international terrorism, including support or  
23 sanctuary for any major terrorist or terrorist group in  
24 its territory, during the preceding 6-month period; and

1           “(B) the country concerned has made explicit as-  
 2           surances that it will not support acts of international  
 3           terrorism in the future.”.

4           (2) APPLICABILITY TO PRIOR DETERMINATIONS.—

5   Any determination with respect to any country which was  
 6   made before January 1, 1982, under section 6(i) of the  
 7   Export Administration Act of 1979, as in effect before the  
 8   date of the enactment of this Act, and which was no longer in  
 9   effect on the date of the enactment of this Act, shall be rein-  
 10   stated upon the expiration of 90 days after such date of en-  
 11   actment unless, within that 90-day period, the President sub-  
 12   mits a report under section 6(j)(2) of the Export Administra-  
 13   tion Act of 1979, as amended by subsection (d) of this section  
 14   and paragraph (1) of this subsection, containing the certifica-  
 15   tion described in such section 6(j)(2) with respect to that  
 16   country.

17          (j) CRIME CONTROL INSTRUMENTS.—

18           (1) CONCURRENCE OF SECRETARY OF STATE.—

19   Section 6(k)(1), as redesignated by subsection (d) of this  
 20   section, is amended by adding at the end the following  
 21   new sentence: “Notwithstanding any other provision of  
 22   this Act—

23           “(A) any determination of the Secretary of what  
 24   goods or technology shall be included on the list estab-  
 25   lished pursuant to subsection (l) of this section as a

1 result of the export restrictions imposed by this subsec-  
2 tion shall be made with the concurrence of the Secre-  
3 tary of State, and

4 “(B) any determination of the Secretary to ap-  
5 prove or deny an export license application to export  
6 crime control or detection instruments or equipment  
7 shall be made in concurrence with the recommenda-  
8 tions of the Secretary of State submitted to the Secre-  
9 tary with respect to the application pursuant to section  
10 10(e) of this Act,

11 except that, if the Secretary does not agree with the Secre-  
12 tary of State with respect to any determination under sub-  
13 paragraph (A) or (B), the matter shall be referred to the  
14 President for resolution.”.

15 (2) APPLICABILITY OF AMENDMENT.—The  
16 amendment made by paragraph (1) of this subsection  
17 shall apply to determinations of the Secretary of Com-  
18 merce which are made on or after the date of the en-  
19 actment of this Act.

20 (k) CONTROL LIST.—Section 6(l), as redesignated by  
21 subsection (d) of this section, is amended—

22 (1) in the first sentence by striking out “commodi-  
23 ty”; and

24 (2) by amending the second sentence to read as  
25 follows: “The Secretary shall clearly identify on the

1 control list which goods or technology, and which  
 2 countries or destinations, are subject to which types of  
 3 controls under this section.”.

4 (l) ADDITIONAL PROVISIONS ON FOREIGN POLICY  
 5 CONTROLS.—

6 (1) CONTRACT SANCTITY, EXTENSION OF CER-  
 7 TAIN CONTROLS, AND EXPANDED AUTHORITY.—Sec-  
 8 tion 6 is amended by adding at the end the following:

9 “(m) EFFECT ON EXISTING CONTRACTS AND LI-  
 10 CENSES.—The President may not, under this section, prohib-  
 11 it or curtail the export or reexport of goods, technology, or  
 12 other information—

13 “(1) in performance of a contract or agreement  
 14 entered into before the date on which the President re-  
 15 ports to the Congress, pursuant to subsection (f) of this  
 16 section, his intention to impose controls on the export  
 17 or reexport of such goods, technology, or other infor-  
 18 mation, or

19 “(2) under a validated license or other authoriza-  
 20 tion issued under this Act,  
 21 unless and until the President determines and certifies to the  
 22 Congress that—

23 “(A) a breach of the peace poses a serious and  
 24 direct threat to the strategic interest of the United  
 25 States,

1           “(B) the prohibition or curtailment of such con-  
2           tracts, agreements, licenses, or authorizations will be  
3           instrumental in remedying the situation posing the  
4           direct threat, and

5           “(C) the export controls will continue only so long  
6           as the direct threat persists.

7           “(n) EXTENSION OF CERTAIN CONTROLS.—Those  
8           export controls imposed under this section with respect to  
9           South Africa which were in effect on February 28, 1982, and  
10          ceased to be effective on March 1, 1982, September 15,  
11          1982, or January 20, 1983, shall become effective on the  
12          date of the enactment of this subsection, and shall remain in  
13          effect until 1 year after such date of enactment. At the end of  
14          that 1-year period, any of those controls made effective by  
15          this subsection may be extended by the President in accord-  
16          ance with subsections (b) and (f) of this section.

17          “(o) EXPANDED AUTHORITY TO IMPOSE CON-  
18          TROLS.—(1) In any case in which the President determines  
19          that it is necessary to impose controls under this section  
20          without any limitation contained in subsection (c), (d), (e), (g),  
21          (h), or (m) of this section, the President may impose those  
22          controls only if the President submits that determination to  
23          the Congress, together with a report pursuant to subsection  
24          (f) of this section with respect to the proposed controls, and  
25          only if a law is enacted authorizing the imposition of those

1 controls. If a joint resolution authorizing the imposition of  
2 those controls is introduced in either House of Congress  
3 within 30 days after the Congress receives the determination  
4 and report of the President, that joint resolution shall be re-  
5 ferred to the Committee on Banking, Housing, and Urban  
6 Affairs of the Senate and to the Committee on Foreign Af-  
7 fairs of the House of Representatives. If either such commit-  
8 tee has not reported the joint resolution at the end of 30 days  
9 after its referral, the committee shall be discharged from fur-  
10 ther consideration of the joint resolution.

“(2) For purposes of this subsection, the term ‘joint res-  
olution’ means a joint resolution the matter after the resolv-  
ing clause of which is as follows: ‘That the Congress, having  
received on \_\_\_\_\_ a determination of the President  
under section 6(o)(1) of the Export Administration Act of  
1979 with respect to the export controls which are set forth  
in the report submitted to the Congress with that determina-  
tion, authorizes the President to impose those export con-  
trols.’, with the date of the receipt of the determination and  
report inserted in the blank.

21       “(3) In the computation of the periods of 30 days re-  
22       ferred to in paragraph (1), there shall be excluded the days on  
23       which either House of Congress is not in session because of  
24       an adjournment of more than 3 days to a day certain or be-  
25       cause of an adjournment of the Congress sine die.”.

1           (2) APPLICABILITY OF AMENDMENTS.—Subsec-  
2       tions (m) and (o) of section 6 of the Export Administra-  
3       tion Act of 1979, as added by paragraph (1) of this  
4       subsection, shall not apply to export controls in effect  
5       immediately before the date of the enactment of this  
6       Act, or to export controls made effective by subsection  
7       (i)(2) of this section or by section 6(n) of the Export  
8       Administration Act of 1979 (as added by paragraph (1)  
9       of this subsection).

10   SEC. 109. PETITIONS FOR MONITORING OR SHORT SUPPLY  
11                           CONTROLS.

12       Section 7(c) (50 U.S.C. App. 2406(c)) is amended to  
13   read as follows:

14       “(c) PETITIONS FOR MONITORING OR CONTROLS.—  
15   (1)(A) Any entity, including a trade association, firm, or certi-  
16   fied or recognized union or group of workers, that is repre-  
17   sentative of an industry or a substantial segment of an indus-  
18   try that processes metallic materials capable of being recy-  
19   cled may transmit a written petition to the Secretary request-  
20   ing the monitoring of exports or the imposition of export con-  
21   trols, or both, with respect to any such material, in order to  
22   carry out the policy set forth in section 3(2)(C) of this Act.  
23       “(B) Each petition shall be in such form as the Secre-  
24   tary shall prescribe and shall contain information in support  
25   of the action requested. The petition shall include any infor-

1 mation reasonably available to the petitioner indicating that  
2 each of the criteria set forth in paragraph (3)(A) of this sub-  
3 section is satisfied.

4 “(2) Within 15 days after receipt of any petition de-  
5 scribed in paragraph (1), the Secretary shall publish a notice  
6 in the Federal Register. The notice shall—

7 “(A) include the name of the material that is the  
8 subject of the petition,

9 “(B) include the Schedule B number of the mate-  
10 rial as set forth in the Statistical Classification of Do-  
11 mestic and Foreign Commodities Exported from the  
12 United States,

13 “(C) indicate whether the petitioner is requesting  
14 that controls or monitoring, or both, be imposed with  
15 respect to the exportation of such material, and

16 “(D) provide that interested persons shall have a  
17 period of 30 days beginning on the date of publication  
18 of such notice to submit to the Secretary written data,  
19 views or arguments, with or without opportunity for  
20 oral presentation, with respect to the matter involved.

21 At the request of the petitioner or any other entity described  
22 in paragraph (1)(A) with respect to the material that is the  
23 subject of the petition, or at the request of any entity repre-  
24 sentative of producers or exporters of such material, the Sec-  
25 retary shall conduct public hearings with respect to the sub-



1 ject of the petition, in which case the 30-day period may be  
2 extended to 45 days.

3 “(3)(A) Within 45 days after the end of the 30- or 45-  
4 day period described in paragraph (2), as the case may be,  
5 the Secretary shall determine whether to impose monitoring  
6 or controls, or both, on the export of the material that is the  
7 subject of the petition, in order to carry out the policy set  
8 forth in section 3(2)(C) of this Act. In making such determi-  
9 nation, the Secretary shall determine whether—

10 “(i) there has been a significant increase, in rela-  
11 tion to a specific period of time, in exports of such ma-  
12 terial in relation to domestic supply and demand;

13 “(ii) there has been a significant increase in the  
14 domestic price of such material or a domestic shortage  
15 of such material relative to demand;

16 “(iii) exports of such material are as important as  
17 any other cause of a domestic price increase or short-  
18 age relative to demand found under clause (ii);

19 “(iv) a domestic price increase or shortage rela-  
20 tive to demand found under clause (ii) has significantly  
21 adversely affected or may significantly adversely affect  
22 the national economy or any sector thereof, including a  
23 domestic industry; and

1           “(v) monitoring or controls, or both, are necessary  
2           in order to carry out the policy set forth in section  
3           3(2)(C) of this Act.

4           “(B) The Secretary shall publish in the Federal Register  
5           a detailed statement of the reasons for the Secretary’s deter-  
6           mination pursuant to subparagraph (A) of whether to impose  
7           monitoring or controls, or both, including the findings of fact  
8           in support of that determination.

9           “(4) Within 15 days after making a determination under  
10          paragraph (3) to impose monitoring or controls on the export  
11          of a material, the Secretary shall publish in the Federal Reg-  
12          ister proposed regulations with respect to such monitoring or  
13          controls. Within 30 days after the publication of such pro-  
14          posed regulations, and after considering any public comments  
15          on the proposed regulations, the Secretary shall publish and  
16          implement final regulations with respect to such monitoring  
17          or controls.

18          “(5) For purposes of publishing notices in the Federal  
19          Register and scheduling public hearings pursuant to this sub-  
20          section, the Secretary may consolidate petitions, and re-  
21          sponses to such petitions, which involve the same or related  
22          materials.

23          “(6) If a petition with respect to a particular material or  
24          group of materials has been considered in accordance with all  
25          the procedures prescribed in this subsection, the Secretary

1 may determine, in the absence of significantly changed cir-  
2 cumstances, that any other petition with respect to the same  
3 material or group of materials which is filed within 6 months  
4 after the consideration of the prior petition has been complet-  
5 ed does not merit complete consideration under this subsec-  
6 tion.

7 “(7) The procedures and time limits set forth in this  
8 subsection with respect to a petition filed under this subsec-  
9 tion shall take precedence over any review undertaken at the  
10 initiative of the Secretary with respect to the same subject as  
11 that of the petition.

12 “(8) The Secretary may impose monitoring or controls,  
13 on a temporary basis, on the export of a metallic material  
14 after a petition is filed under paragraph (1)(A) with respect to  
15 that material but before the Secretary makes a determination  
16 under paragraph (3) with respect to that material only if—

17 “(A) the failure to take such temporary action  
18 would result in irreparable harm to the entity filing the  
19 petition, or to the national economy or segment there-  
20 of, including a domestic industry, and

21 “(B) the Secretary considers such action to be  
22 necessary to carry out the policy set forth in section  
23 3(2)(C) of this Act.

24 “(9) The authority under this subsection shall not be  
25 construed to affect the authority of the Secretary under any

1 other provision of this Act, except that if the Secretary deter-  
 2 mines, on the Secretary's own initiative, to impose monitor-  
 3 ing or controls, or both, on the export of metallic materials  
 4 capable of being recycled, under the authority of this section,  
 5 the Secretary shall publish the reasons for such action in ac-  
 6 cordance with paragraph (3) (A) and (B) of this subsection.

7       “(10) Nothing contained in this subsection shall be con-  
 8 strued to preclude submission on a confidential basis to the  
 9 Secretary of information relevant to a decision to impose or  
 10 remove monitoring or controls under the authority of this  
 11 Act, or to preclude consideration of such information by the  
 12 Secretary in reaching decisions required under this subsec-  
 13 tion. The provisions of this paragraph shall not be construed  
 14 to affect the applicability of section 552(b) of title 5, United  
 15 States Code.”.

16 **SEC. 110. SHORT SUPPLY CONTROLS.**

17       (a) **DOMESTICALLY PRODUCED CRUDE OIL.**—Section  
 18 7(d) (50 U.S.C. App. 2406(d)) is amended—

19               (1) in paragraph (1) by striking out “unless” and  
 20               all that follows through “met” and inserting in lieu  
 21               thereof “subject to paragraph (2) of this subsection”;

22               (2) in paragraph (2)(A) by striking out “makes  
 23               and publishes” and inserting in lieu thereof “so recom-  
 24               mends to the Congress after making and publishing”;

25               (3) in paragraph (2)(B)—

1 (A) by striking out “reports such findings”  
2 and inserting in lieu thereof “includes such find-  
3 ings in his recommendation”; and

4 (B) by striking out “thereafter” and all that  
5 follows through the end of the sentence and in-  
6 serting in lieu thereof “after receiving that recom-  
7 mendation, agrees to a joint resolution which ap-  
8 proves such exports on the basis of those findings,  
9 and which is thereafter enacted into law.”; and

10 (4) by adding at the end the following:

11 “(4) Notwithstanding the provisions of section 20 of this  
12 Act, the provisions of this subsection shall expire on Septem-  
13 ber 30, 1990.”.

14 (b) REFINED PETROLEUM PRODUCTS.—Section 7(e)(1)  
15 is amended in the first sentence by striking out “No” and  
16 inserting in lieu thereof the following: “In any case in which  
17 the President determines that it is necessary to impose export  
18 controls on refined petroleum products in order to carry out  
19 the policy set forth in section 3(2)(C) of this Act, the Presi-  
20 dent shall notify the Congress of that determination. The  
21 President shall also notify the Congress if and when he deter-  
22 mines that such export controls are no longer necessary.  
23 During any period in which a determination that such export  
24 controls are necessary is in effect, no”.

1 (c) UNPROCESSED RED CEDAR.—Section 7(i) is amend-  
2 ed—

3 (1) in the last sentence of paragraph (1) by insert-  
4 ing “harvested from State or Federal lands” after “red  
5 cedar logs”;

6 (2) by redesignating paragraphs (2), (3), and (4) as  
7 paragraphs (3), (4), and (5), respectively;

8 (3) by inserting after paragraph (1) the following  
9 new paragraph:

10 “(2) To the maximum extent practicable, the Secretary  
11 shall utilize the multiple validated export licenses described  
12 in section 4(a)(2) of this Act in lieu of validated licenses for  
13 exports under this subsection.”; and

14 (4) by amending paragraph (5)(A), as redesignated  
15 by paragraph (2) of this subsection, to read as follows:

16 “(A) lumber of American Lumber Standards  
17 Grades of Number 3 dimension or better, or Pacific  
18 Lumber Inspection Bureau Export R-List Grades of  
19 Number 3 common or better;”.

20 (d) AGRICULTURAL COMMODITIES.—Section 7(g)(3) is  
21 amended to read as follows:

22 “(3)(A) If the President imposes export controls on any  
23 agricultural commodity in order to carry out the policy set  
24 forth in paragraph (2)(B), (2)(C), (7), or (8) of section 3 of this  
25 Act, the President shall immediately transmit a report on

1 such action to the Congress, setting forth the reasons for the  
2 controls in detail and specifying the period of time, which  
3 may not exceed 1 year, that the controls are proposed to be  
4 in effect. If the Congress, within 60 days after the date of its  
5 receipt of the report, adopts a joint resolution pursuant to  
6 paragraph (4) approving the imposition of the export controls,  
7 then such controls shall remain in effect for the period speci-  
8 fied in the report, or until terminated by the President,  
9 whichever occurs first. If the Congress, within 60 days after  
10 the date of its receipt of such report, fails to adopt a joint  
11 resolution approving such controls, then such controls shall  
12 cease to be effective upon the expiration of that 60-day  
13 period.

14 “(B) The provisions of subparagraph (A) and paragraph  
15 (4) shall not apply to export controls—

16 “(i) which are extended under this Act if the con-  
17 trols, when imposed, were approved by the Congress  
18 under subparagraph (A) and paragraph (4); or

19 “(ii) which are imposed with respect to a country  
20 as part of the prohibition or curtailment of all exports  
21 to that country.

22 “(4)(A) For purposes of this paragraph, the term ‘joint  
23 resolution’ means only a joint resolution the matter after the  
24 resolving clause of which is as follows: ‘That, pursuant to  
25 section 7(g)(3) of the Export Administration Act of 1979, the

1 President may impose export controls as specified in the  
2 report submitted to the Congress on .',  
3 with the blank space being filled with the appropriate date.

4       “(B) On the day on which a report is submitted to the  
5 House of Representatives and the Senate under paragraph  
6 (3), a joint resolution with respect to the export controls  
7 specified in such report shall be introduced (by request) in the  
8 House by the chairman of the Committee on Foreign Affairs,  
9 for himself and the ranking minority member of the Commit-  
10 tee, or by Members of the House designated by the chairman  
11 and ranking minority member; and shall be introduced (by  
12 request) in the Senate by the majority leader of the Senate,  
13 for himself and the minority leader of the Senate, or by Mem-  
14 bers of the Senate designated by the majority leader and mi-  
15 nority leader of the Senate. If either House is not in session  
16 on the day on which such a report is submitted, the joint  
17 resolution shall be introduced in that House, as provided in  
18 the preceding sentence, on the first day thereafter on which  
19 that House is in session.

20       “(C) All joint resolutions introduced in the House of  
21 Representatives shall be referred to the appropriate commit-  
22 tee and all joint resolutions introduced in the Senate shall be  
23 referred to the Committee on Banking, Housing, and Urban  
24 Affairs.



1       “(D) If the committee of either House to which a joint  
2 resolution has been referred has not reported the joint resolu-  
3 tion at the end of 30 days after its referral, the committee  
4 shall be discharged from further consideration of the joint res-  
5 olution or of any other joint resolution introduced with re-  
6 spect to the same matter.

7       “(E) A joint resolution under this paragraph shall be  
8 considered in the Senate in accordance with the provisions of  
9 section 601(b)(4) of the International Security Assistance and  
10 Arms Export Control Act of 1976. For the purpose of expe-  
11 diting the consideration and passage of joint resolutions under  
12 this paragraph, it shall be in order for the Committee on  
13 Rules of the House of Representatives (notwithstanding the  
14 provisions of clause 4(b) of Rule XI of the Rules of the House  
15 of Representatives) to present for immediate consideration,  
16 on the day reported, a resolution of the House of Representa-  
17 tives providing procedures for the consideration of a joint res-  
18 olution under this paragraph similar to the procedures set  
19 forth in section 601(b)(4) of the International Security Assist-  
20 ance and Arms Export Control Act of 1976.

21       “(F) In the case of a joint resolution described in sub-  
22 paragraph (A), if, before the passage by one House of a joint  
23 resolution of that House, that House receives a resolution  
24 with respect to the same matter from the other House,  
25 then—

1           “(i) the procedure in that House shall be the same  
2       as if no joint resolution had been received from the  
3       other House; but

4           “(ii) the vote on final passage shall be on the joint  
5       resolution of the other House.

6       “(5) In the computation of the period of 60 days re-  
7       ferred to in paragraph (3) and the period of 30 days referred  
8       to in subparagraph (D) of paragraph (4), there shall be ex-  
9       cluded the days on which either House of Congress is not in  
10      session because of an adjournment of more than 3 days to a  
11      day certain or because of an adjournment of the Congress  
12      sine die.”.

13       (e) CONTRACT SANCTITY.—Section 7 is amended by  
14      striking out subsection (j) and inserting in lieu thereof the  
15      following:

16       “(j) EFFECT OF CONTROLS ON EXISTING CON-  
17      TRACTS.—The export restrictions contained in subsection (i)  
18      of this section and any export controls imposed under this  
19      section shall not affect any contract to harvest unprocessed  
20      western red cedar from State lands which was entered into  
21      before October 1, 1979, and the performance of which would  
22      make the red cedar available for export. Any export controls  
23      imposed under this section on any agricultural commodity (in-  
24      cluding fats, oils, and animal hides and skins) or on any forest  
25      product or fishery product, shall not affect any contract to

1 export entered into before the date on which such controls  
 2 are imposed. For purposes of this subsection, the term ‘con-  
 3 tract to export’ includes, but is not limited to, an export sales  
 4 agreement and an agreement to invest in an enterprise which  
 5 involves the export of goods or technology.”.

6 **SEC. 111. LICENSING PROCEDURES.**

7 (a) **REDUCTION OF PROCESSING TIME.**—Section 10  
 8 (50 U.S.C. App. 2409) is amended—

9 (1) by striking out “60” each place it appears and  
 10 inserting in lieu thereof “40”;

11 (2) by striking out “90” each place it appears and  
 12 inserting in lieu thereof “60”; and

13 (3) by striking out “30” each place it appears and  
 14 inserting in lieu thereof “20”.

15 (b) **AMENDMENTS WITH REGARD TO EXPORTS TO**  
 16 **COCOM COUNTRIES.**—

17 (1) **ACTION ON APPLICATIONS NOT REFERRED**  
 18 **TO OTHER DEPARTMENTS OR AGENCIES.**—Section  
 19 10(c) is amended by striking out “In each case” and  
 20 inserting in lieu thereof “Except as provided in subsec-  
 21 tion (o), in each case”.

22 (2) **REFERRALS TO OTHER DEPARTMENTS AND**  
 23 **AGENCIES.**—Section 10(d) is amended—

24 (A) by striking out “In each case” and in-  
 25 serting in lieu thereof “Except in the case of ex-

1 ports described in subsection (o), in each case”;  
2 and

3 (B) by adding at the end the following:

4 “Notwithstanding the 10-day period set forth in sub-  
5 section (b), in the case of exports described in subsec-  
6 tion (o), in each case in which the Secretary deter-  
7 mines that it is necessary to refer an application to any  
8 other department or agency for its information and rec-  
9 ommendations, the Secretary shall, immediately upon  
10 receipt of the properly completed application, refer the  
11 application to such department or agency for its  
12 review. Such review shall be concurrent with that of  
13 the Department of Commerce.”.

14 (3) ACTION BY OTHER DEPARTMENTS AND  
15 AGENCIES.—Section 10(e) is amended—

16 (A) in paragraph (1) by striking out the first  
17 sentence and inserting in lieu thereof the follow-  
18 ing: “Any department or agency to which an ap-  
19 plication is referred pursuant to subsection (d)  
20 shall submit to the Secretary the information or  
21 recommendations requested with respect to the  
22 application. The information or recommendations  
23 shall be submitted within 20 days after the de-  
24 partment or agency receives the application or, in  
25 the case of exports described in subsection (o),

1 before the expiration of the time periods permitted  
2 by that subsection.”; and

3 (B) in paragraph (2)—

4 (i) by striking out “If the head” and in-  
5 serting in lieu thereof “(A) Except in the  
6 case of exports described in subsection (o), if  
7 the head”, and

8 (ii) by adding at the end the following:

9 “(B) In the case of exports described in subsection (o), if  
10 the head of any such department or agency notifies the Sec-  
11 retary, before the expiration of the 15-day period provided in  
12 subsection (o)(1), that more time is required for review by  
13 such department or agency, the Secretary shall notify the  
14 applicant, pursuant to subsection (o)(1)(C), that additional  
15 time is required to consider the application, and such depart-  
16 ment or agency shall have additional time to consider the  
17 application within the limits permitted by subsection (o)(2). If  
18 such department or agency does not submit its recommenda-  
19 tions within the time periods permitted under subsection (o),  
20 it shall be deemed by the Secretary to have no objection to  
21 the approval of such application.”.

22 (4) ACTION BY THE SECRETARY.—Section 10(f)  
23 is amended in paragraphs (1) and (4) by adding at the  
24 end of each such paragraph the following: “The provi-

1       sions of this paragraph shall not apply in the case of  
2       exports described in subsection (o).”.

3       (c) RIGHT OF APPLICANT TO RESPOND TO NEGATIVE  
4 RECOMMENDATIONS.—Section 10(f)(2) is amended—

5           (1) by inserting “in writing” after “inform the ap-  
6       plicant”; and

7           (2) by striking out “, and shall accord” and all  
8       that follows through the end of the paragraph and in-  
9       serting in lieu thereof the following: “. Before a final  
10      determination with respect to the application is made,  
11      the applicant shall be entitled—

12           “(A) to respond in writing to such questions, con-  
13      siderations, or recommendations within 30 days after  
14      receipt of such information from the Secretary; and

15           “(B) upon the filing of a written request with the  
16      Secretary within 15 days after the receipt of such in-  
17      formation, to respond in person to the department or  
18      agency raising such questions, considerations, or rec-  
19      ommendations.

20      The provisions of this paragraph shall not apply in the case of  
21      exports described in subsection (o).”.

22       (d) RIGHTS OF APPLICANT WITH RESPECT TO PRO-  
23      POSED DENIAL.—Section 10(f)(3) is amended by striking out  
24      the first sentence and inserting in lieu thereof the following:  
25      “In cases where the Secretary has determined that an appli-

1 cation should be denied, the applicant shall be informed in  
2 writing, within 5 days after such determination is made, of—

3 “(A) the determination,

4 “(B) the statutory basis for the proposed denial,

5 “(C) the policies set forth in section 3 of this Act  
6 which would be furthered by the proposed denial,

7 “(D) what if any modifications in or restrictions  
8 on the goods or technology for which the license was  
9 sought would allow such export to be compatible with  
10 export controls imposed under this Act,

11 “(E) which officers and employees of the Depart-  
12 ment of Commerce who are familiar with the applica-  
13 tion will be made reasonably available to the applicant  
14 for considerations with regard to such modifications or  
15 restrictions, if appropriate,

16 “(F) to the extent consistent with the national se-  
17 curity and foreign policy of the United States, the spe-  
18 cific considerations which led to the determination to  
19 deny the application, and

20 “(G) the availability of appeal procedures.

21 The Secretary shall allow the applicant at least 30 days to  
22 respond to the Secretary’s determination before the license  
23 application is denied.”.

24 (e) ADDITIONAL PROVISIONS.—Section 10 is amend-  
25 ed—

1           (1) in the section heading by adding “; OTHER IN-  
2       QUIRIES” after “APPLICATIONS”; and

3           (2) by adding at the end the following new sub-  
4       sections:

5       “(k) CHANGES IN REQUIREMENTS FOR APPLICA-  
6       TIONS.—Except as provided in subsection (b)(3) of this sec-  
7       tion, in any case in which, after a license application is sub-  
8       mitted, the Secretary changes the requirements for such a  
9       license application, the Secretary may request appropriate  
10      additional information of the applicant, but the Secretary may  
11      not return the application to the applicant without action be-  
12      cause it fails to meet the changed requirements.

13      “(l) OTHER INQUIRIES.—(1) In any case in which the  
14      Secretary receives a written request asking for the proper  
15      classification of a good or technology on the control list, the  
16      Secretary shall, within 10 working days after receipt of the  
17      request, inform the person making the request of the proper  
18      classification.

19      “(2) In any case in which the Secretary receives a writ-  
20      ten request for information about the applicability of export  
21      license requirements under this Act to a proposed export  
22      transaction or series of transactions, the Secretary shall,  
23      within 30 days after receipt of the request, reply with that  
24      information to the person making the request.



1       “(m) SMALL BUSINESS ASSISTANCE.—Not later than  
2 120 days after the date of the enactment of this subsection,  
3 the Secretary shall develop and transmit to the Congress a  
4 plan to assist small businesses in the export licensing applica-  
5 tion process under this Act. The plan shall include, among  
6 other things, arrangements for counseling small businesses on  
7 filing applications and identifying goods or technology on the  
8 control list, proposals for seminars and conferences to edu-  
9 cate small businesses on export controls and licensing proce-  
10 dures, and the preparation of informational brochures.

11       “(n) REPORTS ON LICENSE APPLICATIONS.—(1) Not  
12 later than 180 days after the date of the enactment of this  
13 subsection, and not later than the end of each 3-month period  
14 thereafter, the Secretary shall submit to the Committee on  
15 Foreign Affairs of the House of Representatives and to the  
16 Committee on Banking, Housing, and Urban Affairs of the  
17 Senate a report listing—

18               “(A) all applications on which action was com-  
19 pleted during the preceding 3-month period and which  
20 required a period longer than the period permitted  
21 under subsection (c), (f)(1), or (h) of this section, as the  
22 case may be, before notification of a decision to ap-  
23 prove or deny the application was sent to the appli-  
24 cant; and

1           “(B) in a separate section, all applications which  
2       have been in process for a period longer than the  
3       period permitted under subsection (c), (f)(1), or (h) of  
4       this section, as the case may be, and upon which final  
5       action has not been taken.

6           “(2) With regard to each application, each listing shall  
7       identify—

8           “(A) the application case number;

9           “(B) the value of the goods or technology to  
10       which the application relates;

11          “(C) the country of destination of the goods or  
12       technology;

13          “(D) the date on which the application was re-  
14       ceived by the Secretary;

15          “(E) the date on which the Secretary approved or  
16       denied the application;

17          “(F) the date on which the notification of approval  
18       or denial of the application was sent to the applicant;  
19       and

20          “(G) the total number of days which elapsed be-  
21       tween receipt of the application, in its properly com-  
22       pleted form, and the earlier of the last day of the 3-  
23       month period to which the report relates, or the date  
24       on which notification of approval or denial of the appli-  
25       cation was sent to the applicant.

1       “(3) With respect to an application which was referred  
2 to other departments or agencies, the listing shall also in-  
3 clude—

4               “(A) the departments or agencies to which the ap-  
5 plication was referred;

6               “(B) the date or dates of such referral; and

7               “(C) the date or dates on which recommendations  
8 were received from those departments or agencies.

9       “(4) With respect to an application referred to any other  
10 department or agency which did not submit or has not sub-  
11 mitted its recommendations on the application within the  
12 period permitted under subsection (e) of this section to submit  
13 such recommendations, the listing shall also include—

14               “(A) the office responsible for processing the ap-  
15 plication and the position of the officer responsible for  
16 the office; and

17               “(B) the period of time that elapsed before the  
18 recommendations were submitted or that has elapsed  
19 since referral of the application, as the case may be.

20       “(5) Each report shall also provide an introduction  
21 which contains—

22               “(A) a summary of the number of applications de-  
23 scribed in paragraph (1)(A) and (B) of this subsection,  
24 and the value of the goods or technology involved in  
25 the applications, grouped according to—

1           “(i) the number of days which elapsed before  
2           action on the applications was completed, or  
3           which has elapsed without action on the applica-  
4           tions being completed, as follows: 61 to 75 days,  
5           76 to 90 days, 91 to 105 days, 106 to 120 days,  
6           and more than 120 days; and

7           “(ii) the number of days which elapsed before  
8           action on the applications was completed, or  
9           which has elapsed without action on the applica-  
10          tions being completed, beyond the period permit-  
11          ted under subsection (c), (f)(1), or (h) of this sec-  
12          tion for the processing of applications, as follows:  
13          not more than 15 days, 16 to 30 days, 31 to 45  
14          days, 46 to 60 days, and more than 60 days; and

15          “(B) a summary by country of destination of the  
16          number of applications described in paragraph (1)(A)  
17          and (B) of this subsection, and the value of the goods  
18          or technology involved in the applications, on which  
19          action was not completed within 60 days.

20          “(o) EXPORTS TO MEMBERS OF COORDINATING COM-  
21          MITTEE.—(1) Fifteen working days after the date of formal  
22          filing with the Secretary of an individual validated license  
23          application for the export of goods or technology to a country  
24          that maintains export controls on such goods or technology  
25          pursuant to the agreement of the governments participating

1 in the group known as the Coordinating Committee, a license  
2 for the transaction specified in the application shall become  
3 valid and effective and the goods or technology are author-  
4 ized for export pursuant to such license unless—

5           “(A) the application has been otherwise approved  
6       by the Secretary, in which case it shall be valid and  
7       effective according to the terms of the approval;

8           “(B) the application has been denied by the Secre-  
9       tary pursuant to this section and the applicant has  
10      been so informed, or the applicant has been informed,  
11      pursuant to subsection (f)(3) of this section, that the ap-  
12      plication should be denied; or

13          “(C) the Secretary requires additional time to con-  
14      sider the application and the applicant has been so in-  
15      formed.

16          “(2) In the event that the Secretary notifies an applicant  
17      pursuant to paragraph (1)(C) that more time is required to  
18      consider an individual validated license application, a license  
19      for the transaction specified in the application shall become  
20      valid and effective and the goods or technology are author-  
21      ized for export pursuant to such license 30 working days  
22      after the date that such license application was formally filed  
23      with the Secretary unless—

1           “(A) the application has been otherwise approved  
2       by the Secretary, in which case it shall be valid and  
3       effective according to the terms of the approval; or

4           “(B) the application has been denied by the Secre-  
5       tary pursuant to this section and the applicant has  
6       been so informed, or the applicant has been informed,  
7       pursuant to subsection (f)(3) of this section, that the ap-  
8       plication should be denied.

9           “(3) In reviewing an individual license application sub-  
10      ject to this subsection, the Secretary shall evaluate the infor-  
11      mation set forth in the application and the reliability of the  
12      end-user.

13          “(4) Nothing in this subsection shall affect the scope or  
14      availability of licenses authorizing multiple exports set forth  
15      in section 4(a)(2) of this Act.

16          “(5) The provisions of this subsection shall take effect 4  
17      months after the date of the enactment of the Export Admin-  
18      istration Amendments Act of 1985.”.

19      **SEC. 112. VIOLATIONS.**

20          (a) **IN GENERAL.**—Section 11(a) (50 U.S.C. App.  
21      2410(a)) is amended by inserting after “violates” the follow-  
22      ing: “or conspires to or attempts to violate”.

23          (b) **WILLFUL VIOLATIONS.**—Section 11(b) is amend-  
24      ed—

25              (1) in paragraph (1)—

1 (A) by striking out “exports anything con-  
2 trary to” and inserting in lieu thereof “violates or  
3 conspires to or attempts to violate”;

4 (B) by striking out “such exports” and in-  
5 serting in lieu thereof “the exports involved”;

6 (C) by inserting after “benefit of” the follow-  
7 ing: “, or that the destination or intended destina-  
8 tion of the goods or technology involved is,”; and

9 (D) by striking out “country to which ex-  
10 ports are restricted for national security or” and  
11 inserting in lieu thereof “controlled country or  
12 any country to which exports are controlled for”;

13 (2) in paragraph (2) by striking out the last sen-  
14 tence; and

15 (3) by adding after paragraph (2) the following  
16 new paragraphs:

17 “(3) Any person who possesses any goods or technolo-  
18 gy—

19 “(A) with the intent to export such goods or tech-  
20 nology in violation of an export control imposed under  
21 section 5 or 6 of this Act or any regulation, order, or  
22 license issued with respect to such control, or

23 “(B) knowing or having reason to believe that the  
24 goods or technology would be so exported,

1 shall, in the case of a violation of an export control imposed  
 2 under section 5 (or any regulation, order, or license issued  
 3 with respect to such control), be subject to the penalties set  
 4 forth in paragraph (1) of this subsection and shall, in the case  
 5 of a violation of an export control imposed under section 6 (or  
 6 any regulation, order, or license issued with respect to such  
 7 control), be subject to the penalties set forth in subsection (a).

8       “(4) Any person who takes any action with the intent to  
 9 evade the provisions of this Act or any regulation, order, or  
 10 license issued under this Act shall be subject to the penalties  
 11 set forth in subsection (a), except that in the case of an eva-  
 12 sion of an export control imposed under section 5 or 6 of this  
 13 Act (or any regulation, order, or license issued with respect  
 14 to such control), such person shall be subject to the penalties  
 15 set forth in paragraph (1) of this subsection.

16       “(5) Nothing in this subsection or subsection (a) shall  
 17 limit the power of the Secretary to define by regulations vio-  
 18 lations under this Act.”.

19       (c) CIVIL PENALTIES; ADMINISTRATIVE SANC-  
 20 TIONS.—Section 11(c) is amended—

21               (1) by striking out “head” and all that follows in  
 22 paragraph (1) through “thereof,” and inserting in lieu  
 23 thereof “Secretary (and officers and employees of the  
 24 Department of Commerce specifically designated by  
 25 the Secretary)”; and



1           (2) by adding at the end the following new para-  
2           graphs:

3           “(3) An exception may not be made to any order issued  
4           under this Act which revokes the authority of a United States  
5           person to export goods or technology unless the Committee  
6           on Foreign Affairs of the House of Representatives and the  
7           Committee on Banking, Housing, and Urban Affairs of the  
8           Senate are first consulted concerning the exception.

9           “(4) The President may by regulation provide standards  
10          for establishing levels of civil penalty provided in this subsec-  
11          tion based upon the seriousness of the violation, the culpabil-  
12          ity of the violator, and the violator’s record of cooperation  
13          with the Government in disclosing the violation.”.

14          (d) REFUNDS OF PENALTIES.—Section 11(e) is amend-  
15          ed—

16               (1) by inserting after “subsection (c)” the follow-  
17          ing: “, or any amounts realized from the forfeiture of  
18          any property interest or proceeds pursuant to subsec-  
19          tion (g),”; and

20               (2) by inserting after “refund any such penalty”  
21          the following: “imposed pursuant to subsection (c)”.

22          (e) FORFEITURES; PRIOR CONVICTIONS.—Section 11  
23          is amended—

24               (1) by redesignating subsection (g) as subsection  
25          (i); and

1           (2) by inserting after subsection (f) the following  
2           new subsections:

3           “(g) FORFEITURE OF PROPERTY INTEREST AND PRO-  
4           CEEDS.—(1) Any person who is convicted under subsection  
5           (a) or (b) of a violation of an export control imposed under  
6           section 5 of this Act (or any regulation, order, or license  
7           issued with respect to such control) shall, in addition to any  
8           other penalty, forfeit to the United States—

9           “(A) any of that person’s interest in, security of,  
10          claim against, or property or contractual rights of any  
11          kind in the goods or tangible items that were the sub-  
12          ject of the violation;

13          “(B) any of that person’s interest in, security of,  
14          claim against, or property or contractual rights of any  
15          kind in tangible property that was used in the export  
16          or attempt to export that was the subject of the viola-  
17          tion; and

18          “(C) any of that person’s property constituting, or  
19          derived from, any proceeds obtained directly or indi-  
20          rectly as a result of the violation.

21          “(2) The procedures in any forfeiture under this subsec-  
22          tion, and the duties and authority of the courts of the United  
23          States and the Attorney General with respect to any forfeit-  
24          ure action under this subsection or with respect to any prop-  
25          erty that may be subject to forfeiture under this subsection,

1 shall be governed by the provisions of section 1963 of title  
2 18, United States Code.

3       “(h) **PRIOR CONVICTIONS.**—No person convicted of a  
4 violation of section 793, 794, or 798 of title 18, United  
5 States Code, section 4(b) of the Internal Security Act of  
6 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export  
7 Control Act (22 U.S.C. 2778) shall be eligible, at the discre-  
8 tion of the Secretary, to apply for or use any export license  
9 under this Act for a period of up to 10 years from the date of  
10 the conviction. The Secretary may revoke any export license  
11 under this Act in which such person has an interest at the  
12 time of the conviction.”.

13       (f) **TECHNICAL AMENDMENT.**—Section 11(i), as redes-  
14 igned by subsection (e) of this section, is amended by strik-  
15 ing out “or (f)” and inserting in lieu thereof “(f), (g), or (h)”.

16 **SEC. 113. ENFORCEMENT.**

17       (a) **GENERAL AUTHORITY.**—Section 12(a) (50 U.S.C.  
18 App. 2411(a)) is amended—

19               (1) by inserting “(1)” immediately before the first  
20 sentence;

21               (2) by striking out “such investigations and” and  
22 inserting in lieu thereof “such investigations within the  
23 United States, and the Commissioner of Customs (and  
24 officers or employees of the United States Customs  
25 Service specifically designated by the Commissioner)

1       may make such investigations outside of the United  
2       States, and the head of such department or agency  
3       (and such officers or employees) may”;

4           (3) by striking out “the district court of the  
5       United States for any district in which such person is  
6       found or resides or transacts business, upon application,  
7       and” and inserting in lieu thereof “a district court of  
8       the United States,”;

9           (4) by adding at the end the following new sen-  
10      tence: “In addition to the authority conferred by this  
11      paragraph, the Secretary (and officers or employees of  
12      the Department of Commerce designated by the Secre-  
13      tary) may conduct, outside the United States, pre-li-  
14      cense investigations and post-shipment verifications of  
15      items licensed for export, and investigations in the en-  
16      forcement of section 8 of this Act.”; and

17          (5) by adding at the end the following new para-  
18      graphs:

19      “(2)(A) Subject to subparagraph (B) of this paragraph,  
20      the United States Customs Service is authorized, in the en-  
21      forcement of this Act, to search, detain (after search), and  
22      seize goods or technology at those ports of entry or exit from  
23      the United States where officers of the Customs Service are  
24      authorized by law to conduct such searches, detentions, and  
25      seizures, and at those places outside the United States where

1 the Customs Service, pursuant to agreements or other ar-  
2 rangements with other countries, is authorized to perform en-  
3 forcement activities.

4 “(B) An officer of the United States Customs Service  
5 may do the following in carrying out enforcement authority  
6 under this Act:

7 “(i) Stop, search, and examine a vehicle, vessel,  
8 aircraft, or person on which or whom such officer has  
9 reasonable cause to suspect there are any goods or  
10 technology that has been, is being, or is about to be  
11 exported from the United States in violation of this  
12 Act.

13 “(ii) Search any package or container in which  
14 such officer has reasonable cause to suspect there are  
15 any goods or technology that has been, is being, or is  
16 about to be exported from the United States in viola-  
17 tion of this Act.

18 “(iii) Detain (after search) or seize and secure for  
19 trial any goods or technology on or about such vehicle,  
20 vessel, aircraft, or person, or in such package or con-  
21 tainer, if such officer has probable cause to believe the  
22 goods or technology has been, is being, or is about to  
23 be exported from the United States in violation of this  
24 Act.

1           “(iv) Make arrests without warrant for any viola-  
2           tion of this Act committed in his or her presence or  
3           view or if the officer has probable cause to believe that  
4           the person to be arrested has committed or is commit-  
5           ting such a violation.

6           The arrest authority conferred by clause (iv) of this subpara-  
7           graph is in addition to any arrest authority under other laws.

8           “(3)(A) Subject to subparagraph (B) of this paragraph,  
9           the Secretary shall have the responsibility for the enforce-  
10          ment of section 8 of this Act and, in the enforcement of the  
11          other provisions of this Act, the Secretary is authorized to  
12          search, detain (after search), and seize goods or technology at  
13          those places within the United States other than those ports  
14          specified in paragraph (2)(A) of this subsection. The search,  
15          detention (after search), or seizure of goods or technology at  
16          those ports and places specified in paragraph (2)(A) may be  
17          conducted by officers or employees of the Department of  
18          Commerce designated by the Secretary with the concurrence  
19          of the Commissioner of Customs or a person designated by  
20          the Commissioner.

21          “(B) The Secretary may designate any officer or em-  
22          ployee of the Department of Commerce to do the following in  
23          carrying out enforcement authority under this Act:

1           “(i) Execute any warrant or other process issued  
2           by a court or officer of competent jurisdiction with re-  
3           spect to the enforcement of the provisions of this Act.

4           “(ii) Make arrests without warrant for any viola-  
5           tion of this Act committed in his or her presence or  
6           view, or if the officer or employee has probable cause  
7           to believe that the person to be arrested has committed  
8           or is committing such a violation.

9           “(iii) Carry firearms in carrying out any activity  
10          described in clause (i) or (ii).

11          “(4) All cases involving violations of this Act shall be  
12          referred to the Secretary for purposes of determining civil  
13          penalties and administrative sanctions under section 11(c) of  
14          this Act, or to the Attorney General for criminal action in  
15          accordance with this Act.

16          “(5) Notwithstanding any other provision of law, the  
17          United States Customs Service may expend in the enforce-  
18          ment of export controls under this Act not more than  
19          \$12,000,000 in the fiscal year 1985 and not more than  
20          \$14,000,000 in the fiscal year 1986.

21          “(6) Not later than 90 days after the date of the enact-  
22          ment of the Export Administration Amendments Act of  
23          1985, the Secretary, with the concurrence of the Secretary of  
24          the Treasury, shall publish in the Federal Register proce-  
25          dures setting forth, in accordance with this subsection, the

1 responsibilities of the Department of Commerce and the  
2 United States Customs Service in the enforcement of this  
3 Act. In addition, the Secretary, with the concurrence of the  
4 Secretary of the Treasury, may publish procedures for the  
5 sharing of information in accordance with subsection (c)(3) of  
6 this section, and procedures for the submission to the appro-  
7 priate departments and agencies by private persons of infor-  
8 mation relating to the enforcement of this Act.

9       “(7) For purposes of this section, a reference to the en-  
10 forcement of this Act or to a violation of this Act includes a  
11 reference to the enforcement or a violation of any regulation,  
12 order, or license issued under this Act.”.

13       (b) CONFIDENTIALITY.—Section 12(c)(3) is amended—

14           (1) by striking out “Departments or agencies  
15 which obtain” and inserting in lieu thereof “Any de-  
16 partment or agency which obtains”;

17           (2) by inserting “, including information pertaining  
18 to any investigation,” after “enforcement of this Act”;

19           (3) by striking out “the department” and inserting  
20 in lieu thereof “each department”; and

21           (4) by adding at the end the following: “The Sec-  
22 retary and the Commissioner of Customs, upon re-  
23 quest, shall exchange any licensing and enforcement in-  
24 formation with each other which is necessary to facili-  
25 tate enforcement efforts and effective license decisions.



1       The Secretary, the Attorney General, and the Com-  
2       missioner of Customs shall consult on a continuing  
3       basis with one another and with the heads of other de-  
4       partments and agencies which obtain information sub-  
5       ject to this paragraph, in order to facilitate the ex-  
6       change of such information.”.

7   **SEC. 114. ADMINISTRATIVE PROCEDURE.**

8       Section 13 (50 U.S.C. App. 2412) is amended—

9           (1) in the section heading by striking out “Ex-  
10       EMPTION FROM CERTAIN PROVISIONS RELATING  
11       TO”; and

12          (2) by adding at the end the following:

13       “(c) **PROCEDURES RELATING TO CIVIL PENALTIES**  
14   **AND SANCTIONS.**—(1) In any case in which a civil penalty or  
15   other civil sanction (other than a temporary denial order or a  
16   penalty or sanction for a violation of section 8) is sought  
17   under section 11 of this Act, the charged party is entitled to  
18   receive a formal complaint specifying the charges and, at his  
19   or her request, to contest the charges in a hearing before an  
20   administrative law judge. Before such hearing is held, the  
21   charged party may submit a response to the complaint, in-  
22   cluding briefs and other supporting materials. The charged  
23   party and the Government may present and cross-examine  
24   relevant witnesses. With the approval of the administrative  
25   law judge, the Government may present evidence in camera

1 in the presence of the charged party or his or her representa-  
2 tive. The charged party may argue orally his or her case in  
3 recorded proceedings before the administrative law judge,  
4 who shall then make findings of fact and conclusions of law in  
5 a written decision, which shall be referred to the Secretary.  
6 The Secretary shall, in a written order, affirm, modify, or  
7 vacate the decision of the administrative law judge within 30  
8 days after receiving the decision. The order of the Secretary  
9 shall be final and is not subject to judicial review.

10 “(2) The proceedings described in paragraph (1) shall be  
11 concluded within a period of 1 year after the complaint is  
12 submitted, unless the administrative law judge extends such  
13 period for good cause shown.

14 “(d) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

15 (1) In any case in which it is necessary, in the public interest,  
16 to prevent an imminent violation of this Act or any regula-  
17 tion, order, or license issued under this Act, the Secretary  
18 may, without a hearing, issue an order temporarily denying  
19 United States export privileges (hereinafter in this subsection  
20 referred to as a ‘temporary denial order’) to a person. A tem-  
21 porary denial order may be effective no longer than 60 days  
22 unless renewed in writing by the Secretary for additional 60-  
23 day periods in order to prevent such an imminent violation,  
24 except that a temporary denial order may be renewed only  
25 after notice and an opportunity for a hearing is provided.

1       “(2) A temporary denial order shall define the imminent  
2 violation and state why the temporary denial order was  
3 granted without a hearing. The person or persons subject to  
4 the issuance or renewal of a temporary denial order may file  
5 an appeal of the issuance or renewal of the temporary denial  
6 order with an administrative law judge who shall, within 10  
7 working days after the appeal is filed, recommend that the  
8 temporary denial order be affirmed, modified, or vacated.  
9 Parties may submit briefs and other material to the judge.  
10 The recommendation of the administrative law judge shall be  
11 submitted to the Secretary who shall either accept, reject, or  
12 modify the recommendation by written order within 5 work-  
13 ing days after receiving the recommendation. The written  
14 order of the Secretary under the preceding sentence shall be  
15 final and is not subject to judicial review. The temporary  
16 denial order shall be affirmed only if it is reasonable to be-  
17 lieve that the order is required in the public interest to pre-  
18 vent an imminent violation of this Act or any regulation,  
19 order, or license issued under this Act.

20       “(e) APPEALS FROM LICENSE DENIALS.—A determi-  
21 nation of the Secretary, under section 10(f) of this Act, to  
22 deny a license may be appealed by the applicant to an admin-  
23 istrative law judge who shall have the authority to conduct  
24 proceedings to determine only whether the item sought to be  
25 exported is in fact on the control list. Such proceedings shall

1 be conducted within 90 days after the appeal is filed. Any  
2 determination by an administrative law judge under this sub-  
3 section and all materials filed before such judge in the pro-  
4 ceedings shall be reviewed by the Secretary, who shall either  
5 affirm or vacate the determination in a written decision  
6 within 30 days after receiving the determination. The Secre-  
7 tary's written decision shall be final and is not subject to  
8 judicial review. Subject to the limitations provided in section  
9 12(c) of this Act, the Secretary's decision shall be published  
10 in the Federal Register.

11       “(f) APPOINTMENT OF ADMINISTRATIVE LAW  
12 JUDGES.—Any person who, for at least 2 of the 10 years  
13 immediately preceding the date of the enactment of the  
14 Export Administration Amendments Act of 1985, has served  
15 as a hearing commissioner of the Department of Commerce,  
16 shall be considered as qualified for selection and appointment  
17 as an administrative law judge under section 3105 of title 5,  
18 United States Code.”.

19 **SEC. 115. ANNUAL REPORT.**

20       (a) CONTENTS OF REPORT.—Section 14(a)(15) (50  
21 U.S.C. App. 2413(a)(15)) is amended by striking out “an  
22 analysis” and all that follows through “process, and”.

23       (b) ADDITIONAL REPORTING REQUIREMENTS.—Sec-  
24 tion 14 is amended by adding at the end the following:

1       “(d) REPORT ON EXPORTS TO CONTROLLED COUN-  
 2 TRIES.—The Secretary shall include in each annual report a  
 3 detailed report which lists every license for exports to con-  
 4 trolled countries which was approved under this Act during  
 5 the preceding fiscal year. Such report shall specify to whom  
 6 the license was granted, the type of goods or technology ex-  
 7 ported, and the country receiving the goods or technology.  
 8 The information required by this subsection shall be subject  
 9 to the provisions of section 12(c) of this Act.

10       “(e) REPORT ON DOMESTIC ECONOMIC IMPACT OF  
 11 EXPORTS TO CONTROLLED COUNTRIES.—The Secretary  
 12 shall include in each annual report a detailed description of  
 13 the extent of injury to United States industry and the extent  
 14 of job displacement caused by United States exports of goods  
 15 and technology to controlled countries. The annual report  
 16 shall also include a full analysis of the consequences of ex-  
 17 ports of turnkey plants and manufacturing facilities to con-  
 18 trolled countries which are used by such countries to produce  
 19 goods for export to the United States or to compete with  
 20 United States products in export markets.”.

21 **SEC. 116. UNDER SECRETARY OF COMMERCE FOR EXPORT**  
 22 **ADMINISTRATION; REGULATIONS.**

23       (a) IN GENERAL.—Section 15 (50 U.S.C. App. 2414) is  
 24 amended to read as follows:

## 1       “ADMINISTRATIVE AND REGULATORY AUTHORITY

## 2       “SEC. 15. (a) UNDER SECRETARY OF COMMERCE.—

3   The President shall appoint, by and with the advice and con-  
4   sent of the Senate, an Under Secretary of Commerce for  
5   Export Administration who shall carry out all functions of  
6   the Secretary under this Act, and such other functions, which  
7   were delegated to the office of the Assistant Secretary of  
8   Commerce for Trade Administration before the date of the  
9   enactment of the Export Administration Amendments Act of  
10  1985. The Secretary shall designate three Assistant Secre-  
11  taries of Commerce to assist the Under Secretary in carrying  
12  out such functions.

13       “(b) ISSUANCE OF REGULATIONS.—The President and  
14  the Secretary may issue such regulations as are necessary to  
15  carry out the provisions of this Act. Any such regulations  
16  issued to carry out the provisions of section 5(a), 6(a), 7(a), or  
17  8(b) may apply to the financing, transporting, or other servic-  
18  ing of exports and the participation therein by any person.  
19  Any such regulations the purpose of which is to carry out the  
20  provisions of section 5, or of section 4(a) for the purpose of  
21  administering the provisions of section 5, may be issued only  
22  after the regulations are submitted for review to the Secre-  
23  tary of Defense, the Secretary of State, and such other de-  
24  partments and agencies as the Secretary considers appropri-  
25  ate. The preceding sentence does not require the concurrence

1 or approval of any official, department, or agency to which  
2 such regulations are submitted.

3       “(c) AMENDMENTS TO REGULATIONS.—If the Secre-  
4 tary proposes to amend regulations issued under this Act, the  
5 Secretary shall report to the Committee on Banking, Hous-  
6 ing, and Urban Affairs of the Senate and the Committee on  
7 Foreign Affairs of the House of Representatives on the intent  
8 and rationale of such amendments. Such report shall evaluate  
9 the cost and burden to United States exporters of the pro-  
10 posed amendments in relation to any enhancement of licens-  
11 ing objectives. The Secretary shall consult with the technical  
12 advisory committees authorized under section 5(h) of this Act  
13 in formulating or amending regulations issued under this Act.  
14 The procedures defined by regulations in effect on January 1,  
15 1984, with respect to sections 4 and 5 of this Act, shall  
16 remain in effect unless the Secretary determines, on the basis  
17 of substantial and reliable evidence, that specific change is  
18 necessary to enhance the prevention of diversions of exports  
19 which would prove detrimental to the national security of the  
20 United States or to reduce the licensing and paperwork  
21 burden on exporters and their distributors.”.

22       (b) PAY FOR THE UNDER SECRETARY.—Section 5314  
23 of title 5, United States Code, is amended by inserting  
24 “Under Secretary of Commerce for Export Administration,”  
25 after “Under Secretary of Commerce for Economic Affairs,”.

1 (c) PAY FOR THE ASSISTANT SECRETARIES.—Section  
2 5315 of such title is amended by striking out

3 “Assistant Secretaries of Commerce (8).”

4 and inserting in lieu thereof

5 “Assistant Secretaries of Commerce (10).”.

6 (d) EFFECTIVE DATE.—The provisions of section 15(a)  
7 of the Export Administration Act of 1979, as amended by  
8 subsection (a) of this section, and the amendments made by  
9 subsections (b) and (c) of this section shall take effect on Oc-  
10 tober 1, 1985.

11 SEC. 117. DEFINITIONS.

12 Section 16 (50 U.S.C. App. 2415) is amended—

13 (1) in paragraph (3), by inserting “natural or man-  
14 made substance,” after “article,”;

15 (2) by amending paragraph (4) to read as follows:

16 “(4) the term ‘technology’ means the information  
17 and know-how (whether in tangible form, such as  
18 models, prototypes, drawings, sketches, diagrams, blue-  
19 prints, or manuals, or in intangible form, such as train-  
20 ing or technical services) that can be used to design,  
21 produce, manufacture, utilize, or reconstruct goods, in-  
22 cluding computer software and technical data, but not  
23 the goods themselves;”;

24 (3) by redesignating paragraph (5) as paragraph  
25 (8); and



1           (4) by inserting after paragraph (4) the following  
2       new paragraphs:

3           “(5) the term ‘export’ means—

4               “(A) an actual shipment, transfer, or trans-  
5       mission of goods or technology out of the United  
6       States;

7               “(B) a transfer of goods or technology in the  
8       United States to an embassy or affiliate of a con-  
9       trolled country; or

10              “(C) a transfer to any person of goods or  
11       technology either within the United States or out-  
12       side of the United States with the knowledge or  
13       intent that the goods or technology will be  
14       shipped, transferred, or transmitted to an unau-  
15       thorized recipient;

16              “(6) the term ‘controlled country’ means a con-  
17       trolled country under section 5(b)(1) of this Act;

18              “(7) the term ‘United States’ means the States of  
19       the United States, the District of Columbia, and any  
20       commonwealth, territory, dependency, or possession of  
21       the United States, and includes the outer Continental  
22       Shelf, as defined in section 2‘a) of the Outer Continen-  
23       tal Shelf Lands Act (43 U.S.C. 1331(a)); and”.

1 SEC. 118. EFFECT ON OTHER ACTS.

2 (a) CLARIFYING AMENDMENT.—Section 17(a) (50  
3 U.S.C. App. 2416(a)) is amended by striking out “Nothing”  
4 and inserting in lieu thereof “Except as otherwise provided in  
5 this Act, nothing”.

6 (b) ACT NOT TO AFFECT CERTAIN PROVISIONS OF  
7 AGRICULTURAL ACT OF 1970.—Section 17 is amended by  
8 adding at the end the following:

9 “(f) AGRICULTURAL ACT OF 1970.—Nothing in this  
10 Act shall affect the provisions of the last sentence of section  
11 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3).”.

12 SEC. 119. AUTHORIZATION OF APPROPRIATIONS.

13 Section 18 (50 U.S.C. App. 2417) is amended to read  
14 as follows:

15 “AUTHORIZATION OF APPROPRIATIONS

16 “SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGIS-  
17 LATION.—(1) Notwithstanding any other provision of law,  
18 money appropriated to the Department of Commerce for ex-  
19 penses to carry out the purposes of this Act may be obligated  
20 or expended only if—

21 “(A) the appropriation thereof has been previously  
22 authorized by law enacted on or after the date of the  
23 enactment of the Export Administration Amendments  
24 Act of 1985; or

1           “(B) the amount of all such obligations and ex-  
2           penditures does not exceed an amount previously pre-  
3           scribed by law enacted on or after such date.

4           “(2) To the extent that legislation enacted after the  
5           making of an appropriation to carry out the purposes of this  
6           Act authorizes the obligation or expenditure thereof, the limi-  
7           tation contained in paragraph (1) shall have no effect.

8           “(3) The provisions of this subsection shall not be super-  
9           seded except by a provision of law enacted after the date of  
10          the enactment of the Export Administration Amendments  
11          Act of 1985 which specifically repeals, modifies, or super-  
12          sedes the provisions of this subsection.

13          “(b) **AUTHORIZATION.**—There are authorized to be ap-  
14          propriated to the Department of Commerce to carry out the  
15          purposes of this Act—

16                “(1) \$24,600,000 for the fiscal year 1985, of  
17                which \$8,712,000 shall be available only for enforce-  
18                ment, \$1,851,000 shall be available only for foreign  
19                availability assessments under subsections (f) and (h)(6)  
20                of section 5 of this Act, and \$14,037,000 shall be  
21                available for all other activities under this Act;

22                “(2) \$29,500,000 for the fiscal year 1986, of  
23                which \$10,000,000 shall be available only for enforce-  
24                ment, \$2,000,000 shall be available only for foreign  
25                availability assessments under subsections (f) and (h)(6)

1 of section 5 of this Act, and \$17,500,000 shall be  
2 available for all other activities under this Act; and

3 “(3) such additional amounts for each of the fiscal  
4 years 1985 and 1986 as may be necessary for in-  
5 creases in salary, pay, retirement, other employee ben-  
6 efits authorized by law, and other nondiscretionary  
7 costs.”.

8 **SEC. 120. TERMINATION OF AUTHORITY.**

9 Section 20 (50 U.S.C. App. 2419) is amended to read  
10 as follows:

11 “TERMINATION DATE

12 “SEC. 20. The authority granted by this Act terminates  
13 on September 30, 1989.”.

14 **SEC. 121. IMPORT SANCTIONS.**

15 Chapter 4 of title II of the Trade Expansion Act of  
16 1962 (19 U.S.C. 1861 et seq.) is amended by adding at the  
17 end the following new section:

18 **“SEC. 233. IMPORT SANCTIONS FOR EXPORT VIOLATIONS.**

19 “(a) Any person who violates any national security  
20 export control imposed under section 5 of the Export Admin-  
21 istration Act of 1979 (50 U.S.C. App. 2404), or any regula-  
22 tion, order, or license issued under that section, may be sub-  
23 ject to such controls on the importing of goods or technology  
24 into the United States as the President may prescribe.

25 “(b) Except as provided in subsection (a) of this section,  
26 any person who violates any regulation issued under a multi-

1 lateral agreement, formal or informal, to control exports for  
2 national security purposes, to which the United States is a  
3 party, may be subject to such controls on the importing of  
4 goods or technology into the United States as the President  
5 may prescribe, but only if—

6           “(1) negotiations with the government or govern-  
7       ments, party to the multilateral agreement, with juris-  
8       diction over the violation have been conducted and  
9       been unsuccessful in restoring compliance with the reg-  
10      ulation involved;

11           “(2) the President, after the failure of such negoti-  
12      ations, has notified the government or governments de-  
13      scribed in paragraph (1) and the other parties to the  
14      multilateral agreement that the United States proposes  
15      to subject the person committing the violation to spe-  
16      cific controls on the importing of goods or technology  
17      into the United States upon the expiration of 60 days  
18      from the date of such notification; and

19           “(3) a majority of the parties to the multilateral  
20      agreement (other than the United States), before the  
21      end of that 60-day period, have expressed to the Presi-  
22      dent concurrence in the proposed import controls or  
23      have abstained from stating a position with respect to  
24      the proposed controls.”.

1 **SEC. 122. HOURS OF OFFICE OF EXPORT ADMINISTRATION.**

2       The Secretary of Commerce shall modify the office  
3 hours of the Office of Export Administration of the Depart-  
4 ment of Commerce on at least four days of each workweek so  
5 as to accommodate communications to the Office by export-  
6 ers throughout the continental United States during the  
7 normal business hours of those exporters.

8 **SEC. 123. TECHNICAL AMENDMENTS.**

9       (a) **ARMS EXPORT CONTROL ACT.**—Section 38(e) of  
10 the Arms Export Control Act (22 U.S.C. 2778(e)) is amend-  
11 ed by striking out “(f)” and inserting in lieu thereof “(g)”.

12       (b) **MINERAL LEASING ACT OF 1920.**—Subsection (u)  
13 of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C.  
14 185) is amended—

15               (1) by striking out “1969 (Act of December 30,  
16 1969; 83 Stat. 841)” and inserting in lieu thereof  
17 “1979 (50 U.S.C. App. 2401 and following)”; and

18               (2) by striking out “1969” each subsequent place  
19 it appears and inserting in lieu thereof “1979”.

20 **SEC. 124. AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF**  
21 **1961.**

22       Section 502B(a)(2) of the Foreign Assistance Act of  
23 1961 (22 U.S.C. 2304(a)(2)) is amended by inserting after  
24 “Senate” the first place it appears the following: “and the  
25 chairman of the Committee on Banking, Housing, and Urban

1 Affairs of the Senate (when licenses are to be issued pursuant  
2 to the Export Administration Act of 1979).”.

3 **SEC. 125. EXPORT OF HORSES.**

4 The Act of March 3; 1891 (46 U.S.C. 466a and 466b),  
5 is amended by adding at the end the following:

6 **“SEC. 3. EXPORT OF HORSES.**

7 “(a) **RESTRICTION ON EXPORT OF HORSES.**—Not-  
8 withstanding any other provision of law, no horse may be  
9 exported by sea from the United States, or any of its territo-  
10 ries or possessions, unless such horse is part of a consignment  
11 of horses with respect to which a waiver has been granted  
12 under subsection (b).

13 “(b) **GRANTING OF WAIVERS.**—The Secretary of Com-  
14 merce, in consultation with the Secretary of Agriculture, may  
15 issue regulations providing for the granting of waivers per-  
16 mitting the export by sea of a specified consignment of  
17 horses, if the Secretary of Commerce, in consultation with  
18 the Secretary of Agriculture, determines that no horse in that  
19 consignment is being exported for purposes of slaughter.

20 “(c) **PENALTIES.**—

21 (1) **CRIMINAL PENALTY.**—Any person who know-  
22 ingly violates this section or any regulation, order, or  
23 license issued under this section shall be fined not more  
24 than 5 times the value of the consignment of horses in-

1       volved or \$50,000, whichever is greater, or imprisoned  
2       not more than 5 years, or both.

3           “(2) CIVIL PENALTY.—The Secretary of Com-  
4       merce, after providing notice and an opportunity for an  
5       agency hearing on the record, may impose a civil pen-  
6       alty of not to exceed \$10,000 for each violation of this  
7       section or any regulation, order, or license issued under  
8       this section, either in addition to or in lieu of any other  
9       liability or penalty which may be imposed.”.

10   **SEC. 126. ALASKAN OIL STUDY.**

11       (a) REVIEW OF ALASKAN OIL POLICY.—

12           (1) IN GENERAL.—The President shall undertake  
13       a comprehensive review of the issues and related data  
14       concerning possible changes in the existing incentives  
15       to produce crude oil from the North Slope of Alaska  
16       (including changes in Federal and State taxation, pipe-  
17       line tariffs, and Federal leasing policies) and possible  
18       changes in the existing distribution of crude oil from  
19       the North Slope of Alaska (including changes in export  
20       restrictions which would permit exports at free market  
21       levels and at levels of 50,000 barrels per day, 100,000  
22       barrels per day, 200,000 barrels per day, and 500,000  
23       barrels per day), as well as the appropriateness of con-  
24       tinuing existing controls. Such review shall include, but  
25       not be limited to, a study of—



1 (A) the effect of such changes on the energy  
2 and national security of the United States and its  
3 allies;

4 (B) the role of such changes in United States  
5 foreign policymaking, including international  
6 energy policymaking;

7 (C) the impact of such changes on employ-  
8 ment levels in the maritime industry, the oil in-  
9 dustry, and other industries;

10 (D) the impact of such changes on the refin-  
11 ers and on consumers;

12 (E) the impact of such changes on the reve-  
13 nues and expenditures of the Federal Government  
14 and the government of Alaska;

15 (F) the effect of such changes on incentives  
16 for oil and gas exploration and development in the  
17 United States; and

18 (G) the effect of such changes on the overall  
19 trade deficit of the United States, and the trade  
20 deficit of the United States with respect to par-  
21 ticular countries, including the effect of such  
22 changes on trade barriers of other countries.

23 (2) FINDINGS, OPTIONS, AND RECOMMENDA-  
24 TIONS.—The President shall develop, after consulting  
25 with appropriate State and Federal officials and other

1 persons, findings, options, and recommendations re-  
2 garding the production and distribution of crude oil  
3 from the North Slope of Alaska.

4 (b) REPORT TO THE CONGRESS.—Not later than 9  
5 months after the date of the enactment of this Act, the Presi-  
6 dent shall transmit a report to the Congress containing the  
7 results of the review under subsection (a)(1), and the findings,  
8 options, and recommendations developed under subsection  
9 (a)(2).

## 10 TITLE II—EXPORT PROMOTION 11 PROGRAMS

### 12 SEC. 201. REQUIREMENT OF PRIOR AUTHORIZATION.

13 (a) GENERAL RULE.—Notwithstanding any other pro-  
14 vision of law, money appropriated to the Department of  
15 Commerce for expenses to carry out any export promotion  
16 program may be obligated or expended only if—

17 (1) the appropriation thereof has been previously  
18 authorized by law enacted on or after the date of the  
19 enactment of this Act; or

20 (2) the amount of all such obligations and expend-  
21 itures does not exceed an amount previously prescribed  
22 by law enacted on or after such date.

23 (b) EXCEPTION FOR LATER LEGISLATION AUTHORIZ-  
24 ING OBLIGATIONS OR EXPENDITURES.—To the extent that  
25 legislation enacted after the making of an appropriation to

1 carry out any export promotion program authorizes the obli-  
2 gation or expenditure thereof, the limitation contained in sub-  
3 section (a) shall have no effect.

4 (c) PROVISIONS MUST BE SPECIFICALLY SUPERSED-  
5 ED.—The provisions of this section shall not be superseded  
6 except by a provision of law enacted after the date of the  
7 enactment of this Act which specifically repeals, modifies, or  
8 supersedes the provisions of this section.

9 (d) EXPORT PROMOTION PROGRAM DEFINED.—For  
10 purposes of this title, the term “export promotion program”  
11 means any activity of the Department of Commerce designed  
12 to stimulate or assist United States businesses in marketing  
13 their goods and services abroad competitively with businesses  
14 from other countries, including, but not limited to—

15 (1) trade development (except for the trade adjust-  
16 ment assistance program) and dissemination of foreign  
17 marketing opportunities and other marketing informa-  
18 tion to United States producers of goods and services,  
19 including the expansion of foreign markets for United  
20 States textiles and apparel and any other United States  
21 products;

22 (2) the development of regional and multilateral  
23 economic policies which enhance United States trade  
24 and investment interests, and the provision of market-

1 ing services with respect to foreign countries and re-  
2 gions;

3 (3) the exhibition of United States goods in other  
4 countries; and

5 (4) the operations of the United States and For-  
6 eign Commercial Service, or any successor agency.

7 **SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated \$113,273,000  
9 for each of the fiscal years 1985 and 1986 to the Department  
10 of Commerce to carry out export promotion programs.

11 **SEC. 203. BARTER ARRANGEMENTS.**

12 (a) **REPORT ON STATUS OF FEDERAL BARTER PRO-**  
13 **GRAMS.**—The Secretary of Agriculture shall, not later than  
14 90 days after the date of the enactment of this Act, submit to  
15 the Congress a report on the status of Federal programs re-  
16 lating to the barter or exchange of commodities owned by the  
17 Commodity Credit Corporation for materials and products  
18 produced in foreign countries. Such report shall include de-  
19 tails of any changes necessary in existing law to allow the  
20 Department of Agriculture to implement fully any barter pro-  
21 gram.

22 (b) **AUTHORITIES OF THE PRESIDENT.**—Notwithstand-  
23 ing any other provision of law, the President is authorized—

24 (1) to barter stocks of agricultural commodities ac-  
25 quired by the Government for petroleum and petroleum

1 products, and for other materials vital to the national  
2 interest, which are produced abroad, in situations in  
3 which sales would otherwise not occur; and

4 (2) to purchase petroleum and petroleum products,  
5 and other materials vital to the national interest, which  
6 are produced abroad and acquired by persons in the  
7 United States through barter for agricultural commod-  
8 ities produced in and exported from the United States  
9 through normal commercial trade channels.

10 (c) CONVENTIONAL MARKETS NOT TO BE DISPLACED  
11 BY BARTERS.—The President shall take steps to ensure  
12 that, in making any barter described in subsection (a) or (b)(1)  
13 or any purchase authorized by subsection (b)(2), existing  
14 export markets for agricultural commodities operating on  
15 conventional business terms are safeguarded from displace-  
16 ment by the barter described in subsection (a), (b)(1), or  
17 (b)(2), as the case may be. In addition, the President shall  
18 ensure that any such barter is consistent with the internation-  
19 al obligations of the United States, including the General  
20 Agreement on Tariffs and Trade.

1 **TITLE III—NUCLEAR AGREE-**  
2 **MENTS FOR COOPERATION**

3 **SEC. 301. AGREEMENTS FOR COOPERATION.**

4 (a) NOTIFICATION OF AND CONSULTATION WITH THE  
5 CONGRESS; HEARINGS.—Section 123 of the Atomic Energy  
6 Act of 1954 (42 U.S.C. 2153) is amended—

7 (1) in subsection a. by inserting after “Assessment  
8 Statement” the following: “(A) which shall analyze the  
9 consistency of the text of the proposed agreement for  
10 cooperation with all the requirements of this Act, with  
11 specific attention to whether the proposed agreement is  
12 consistent with each of the criteria set forth in this  
13 subsection, and (B)”;

14 (2) in subsection b. by inserting before “the Presi-  
15 dent” the following: “the President has submitted text  
16 of the proposed agreement for cooperation, together  
17 with the accompanying unclassified Nuclear Prolifera-  
18 tion Assessment Statement, to the Committee on For-  
19 eign Relations of the Senate and the Committee on  
20 Foreign Affairs of the House of Representatives, the  
21 President has consulted with such Committees for a  
22 period of not less than thirty days of continuous session  
23 (as defined in section 130 g. of this Act) concerning the  
24 consistency of the terms of the proposed agreement  
25 with all the requirements of this Act, and”; and

1           (3) in subsection d. by inserting before the sen-  
2       tence which begins "Any such proposed agreement"  
3       the following: "During the sixty-day period the Com-  
4       mittee on Foreign Affairs of the House of Representa-  
5       tives and the Committee on Foreign Relations of the  
6       Senate shall each hold hearings on the proposed agree-  
7       ment for cooperation and submit a report to their re-  
8       spective bodies recommending whether it should be ap-  
9       proved or disapproved."

10       (b) CONGRESSIONAL REVIEW OF AGREEMENTS.—Sub-  
11    section d. of section 123 of the Atomic Energy Act of 1954  
12    (42 U.S.C. 2153(d)) is amended—

13           (1) by striking out "adopts a concurrent resolu-  
14       tion" and inserting in lieu thereof "adopts, and there is  
15       enacted, a joint resolution";

16           (2) by striking out the period at the end of the  
17       first proviso and inserting in lieu thereof ": *Provided*  
18       *further*, That an agreement for cooperation exempted  
19       by the President pursuant to subsection a. from any re-  
20       quirement contained in that subsection shall not  
21       become effective unless the Congress adopts, and there  
22       is enacted, a joint resolution stating that the Congress  
23       does favor such agreement."; and

1           (3) by striking out “130 of this Act for the consid-  
2           eration of Presidential submissions” and inserting in  
3           lieu thereof “130 i. of this Act”.

4           (c) PROCEDURES FOR CONSIDERATION OF AGREE-  
5           MENTS.—

6           (1) TECHNICAL CHANGES.—Section 130 a. of the  
7           Atomic Energy Act of 1954 (42 U.S.C. 2159(a)) is  
8           amended—

9           (A) in the first sentence—

10                   (i) by striking out “123 d.”; and

11                   (ii) by striking out “, and in addition, in  
12           the case of a proposed agreement for coop-  
13           eration arranged pursuant to subsection 91  
14           c., 144 b., or 144 c., the Committee on  
15           Armed Services of the House of Representa-  
16           tives and the Committee on Armed Services  
17           of the Senate,”; and

18           (B) in the proviso, by striking out “and if, in  
19           the case of a proposed agreement for cooperation  
20           arranged pursuant to subsection 91 c., 144 b., or  
21           144 c. of this Act, the other relevant committee  
22           of that House has reported such a resolution, such  
23           committee shall be deemed discharged from fur-  
24           ther consideration of that resolution”.



1           (2) PROCEDURES FOR CONSIDERATION OF JOINT  
2       RESOLUTIONS.—Section 130 of the Atomic Energy  
3       Act of 1954 is amended by adding at the end the fol-  
4       lowing:

5       ‘i. (1) For the purposes of this subsection, the term  
6       ‘joint resolution’ means a joint resolution, the matter after  
7       the resolving clause of which is as follows: ‘That the Con-  
8       gress (does or does not) favor the proposed agreement for  
9       cooperation transmitted to the Congress by the President on  
10       .’, with the date of the transmission of the proposed  
11       agreement for cooperation inserted in the blank, and the af-  
12       firmative or negative phrase within the parenthetical appro-  
13       priately selected.

14       “(2) On the day on which a proposed agreement for co-  
15       operation is submitted to the House of Representatives and  
16       the Senate under section 123 d., a joint resolution with re-  
17       spect to such agreement for cooperation shall be introduced  
18       (by request) in the House by the chairman of the Committee  
19       on Foreign Affairs, for himself and the ranking minority  
20       member of the Committee, or by Members of the House des-  
21       ignated by the chairman and ranking minority member; and  
22       shall be introduced (by request) in the Senate by the majority  
23       leader of the Senate, for himself and the minority leader of  
24       the Senate, or by Members of the Senate designated by the  
25       majority leader and minority leader of the Senate. If either

1 House is not in session on the day on which such an agree-  
2 ment for cooperation is submitted, the joint resolution shall  
3 be introduced in that House, as provided in the preceding  
4 sentence, on the first day thereafter on which that House is  
5 in session.

6 “(3) All joint resolutions introduced in the House of  
7 Representatives shall be referred to the appropriate commit-  
8 tee or committees, and all joint resolutions introduced in the  
9 Senate shall be referred to the Committee on Foreign Rela-  
10 tions and in addition, in the case of a proposed agreement for  
11 cooperation arranged pursuant to section 91 c., 144 b., or  
12 144 c., the Committee on Armed Services.

13 “(4) If the committee of either House to which a joint  
14 resolution has been referred has not reported it at the end of  
15 45 days after its introduction, the committee shall be dis-  
16 charged from further consideration of the joint resolution or  
17 of any other joint resolution introduced with respect to the  
18 same matter; except that, in the case of a joint resolution  
19 which has been referred to more than one committee, if  
20 before the end of that 45-day period one such committee has  
21 reported the joint resolution, any other committee to which  
22 the joint resolution was referred shall be discharged from fur-  
23 ther consideration of the joint resolution or of any other joint  
24 resolution introduced with respect to the same matter.

1       “(5) A joint resolution under this subsection shall be  
2 considered in the Senate in accordance with the provisions of  
3 section 601(b)(4) of the International Security Assistance and  
4 Arms Export Control Act of 1976. For the purpose of expe-  
5 diting the consideration and passage of joint resolutions under  
6 this subsection, it shall be in order for the Committee on  
7 Rules of the House of Representatives (notwithstanding the  
8 provisions of clause 4(b) of rule XI of the Rules of the House  
9 of Representatives) to present for immediate consideration,  
10 on the day reported, a resolution of the House of Representa-  
11 tives providing procedures for the consideration of a joint res-  
12 olution under this subsection similar to the procedures set  
13 forth in section 601(b)(4) of the International Security Assist-  
14 ance and Arms Export Control Act of 1976.

15       “(6) In the case of a joint resolution described in para-  
16 graph (1), if prior to the passage by one House of a joint  
17 resolution of that House, that House receives a joint resolu-  
18 tion with respect to the same matter from the other House,  
19 then—

20               “(A) the procedure in that House shall be the  
21 same as if no joint resolution had been received from  
22 the other House; but

23               “(B) the vote on final passage shall be on the  
24 joint resolution of the other House.”.

1       (d) APPLICABILITY OF AMENDMENTS.—The amend-  
2   ments made by this section shall apply to any agreement for  
3   cooperation which is entered into after the date of the enact-  
4   ment of this Act.

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